



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
Washington, DC 20224

SMALL BUSINESS / SELF-EMPLOYED DIVISION

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IRM Impacted: IRM 5.8

MEMORANDUM FOR DIRECTORS, COLLECTION AREA OFFICES

FROM: Frederick W. Schindler /s/ **Frederick W. Schindler**  
Director, Collection Policy

SUBJECT: Interim Guidance Memorandum for Internal Revenue  
Manual 5.8, Offer in Compromise

This memorandum serves as notification regarding procedural changes impacted by the enactment of The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA). Attached are the interim changes to the current procedures for both the Centralized Offer in Compromise and Field Offer personnel. Procedures attached to this memorandum will be included in the next revision of Internal Revenue Manual (IRM) 5.8, Offers in Compromise. Please disseminate this information to all offer investigators, independent administrative reviewers, and all managers with employees in these positions.

These procedures were effective on July 17, 2006 and will continue until the issuance of the new IRM 5.8, projected to be released in October 2006.

If you have any questions, please contact Gloria Orozco, or a member of your staff may contact Diane Morris. Territory personnel should direct any questions, through their management staff, to the appropriate Area contact.

Attachment

cc: Commissioner, Small Business/Self-Employed Division  
National Chief, Appeals  
Chief Counsel  
National Taxpayer Advocate

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

**5.8.1.4**  
**Appeals**

(1) Offers secured in Appeals offices in conjunction with related CDP casework, will be forwarded to the COIC sites for processability determination, processing of the application fees, required initial payment, and mailing of processability letters provided by Appeals. These offers are not controlled on the AOIC system. COIC will be responsible for the input of necessary transaction codes to IDRS. See IRM 5.8.3.4.2, Determining Processability for Appeals Collection Due Process Offers. Appeals will normally investigate their own offers but if complex issues are identified, they may require the assistance of Collection or Examination through the issuance of an Appeal Referral Investigation (ARI).

**5.8.1.9**  
**Tax Increase Prevention and Reconciliation Act of 2005**

(1) On May 17, 2006, Congress passed the Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA), which made major changes to the offer in compromise (OIC) program, tightening the rules for lump-sum and periodic-payment offers. These changes become effective for all offers received by the IRS starting July 16, 2006.

(2) Under the new law, taxpayers submitting requests for lump-sum OICs must include a payment equal to 20% of the offer amount. The payment is nonrefundable, that is, it will not be returned even if the offer is deemed to be non-processable, later returned, or rejected. A lump-sum OIC means any offer of payments made in five or fewer installments.

(3) Taxpayers submitting requests for periodic-payment OICs must include the first proposed installment payment with their application. A periodic payment OIC is any offer of payments made in six or more installments. The taxpayer is required to pay additional installments while the offer is being evaluated by the IRS. All installment payments are nonrefundable, even if they are deemed non-processable, later returned, or rejected.

(4) Under the new law, taxpayers qualifying as low-income, based on current criteria, and qualify for a waiver, will not have to submit the application fee or the partial payment requirements.

(5) If the IRS cannot make a determination on an OIC within two years, then the offer will be deemed accepted. If a liability included in the offer amount is disputed in any court proceeding, that time period is omitted from calculating the two-year timeframe. Once a determination letter is issued by the Offer Investigator, the 24 month time frame will be considered stopped. The 24 months does not include the time in Appeals.

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

(6) OIC requests are submitted using Form 656, Offer in Compromise. The form provides detailed instructions for completing an offer and includes all of the necessary financial forms. When submitting Form 656, taxpayers must include an application fee of \$150 and the required initial payment, depending on the type of offer, unless they qualify for the low-income exemption or are filing a doubt-as-to-liability offer.

**5.8.1.10.4**  
**Payment Terms**

(1) Taxpayers are expected to pay the entire amount offered in as short a time as possible. Acceptable offer terms should be determined by the Offer Investigator and should not be limited to the proposal of the taxpayer.

(2) The amounts and due dates of payments must be specified.

(3) There are 3 types of payment terms that the Service and the taxpayer may agree to:

- a. **Lump Sum Cash** – must be paid within 5 installments or 150 days from notice of acceptance.
- b. **Short Term Periodic Payment** – must be paid within 6 months to 2 years (24 months) from notice of acceptance.
- c. **Deferred Periodic Payment** – must be paid in 25 or more months, but within the time remaining on the statutory period for collection.

**5.8.2.3.1**  
**Total Liability**

(1) Each separate tax period and type of tax should be indicated on the Form 656. TFRP assessed prior to August 2000 will reflect the last quarter only, while those made after August 2000 will include an assessment for each quarter. Verification on IDRS will be required to determine how the assessment was completed. If an offer is accepted that has TFRP assessments, the case file must include information identifying the BMF periods that comprised the TFRP assessment.

(2) A taxpayer may submit an offer that does not include all outstanding liabilities. Prior to accepting an offer, the Form 656 should be amended to include all outstanding tax liabilities.

(3) An offer submitted under Form 656 L or Doubt to Liability (DATL) offer will be accepted for only the tax periods in question.

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

**5.8.2.5**

**Initial Processing of Offers in Centralized Offer in Compromise Sites**

(1) When an offer is received in the COIC site, an employee will:

a. Date stamp the form upon receipt in the "IRS Received Date Stamp" block of Form 656, Offer in Compromise, and create separate offer sorts, as follows:

- Form 656 with check(s) for more than \$150
- Form 656 with check for \$150 only and no waiver
- Form 656 with waiver and a check for more than the \$150 application fee
- Form 656 with check for \$150 and a waiver
- Form 656 with waiver only
- CDP (with checks)
- Out of Area Transfers (with checks)
- DATL or Form 656 L (with checks)

b. Verify the case is the type of offer that is processed by the COIC site and if not, route it to the proper jurisdiction.

c. If the offer is the responsibility of the Collection function, query IDRS to ensure the receipt is a new offer.

d. If the offer is the responsibility of the Collection function, add the offer to the AOIC data base as an "N" case (except Appeals CDP and DATL offers).

**Note:** The following fields should be completed on the AOIC record:

- Screen 1 – complete the IDRS TIN, OFFER TIN, and DATE RECEIVED fields.
- Y-Entity screen – complete the name control field and the complete name and address of the taxpayer(s) as reflected on the Form 656.
- Write the AOIC offer number on the top right corner of Form 656 in *red* ink.
- Write the AOIC offer number in *blue* ink in the upper left hand corner of the remittance

e. Upon receipt COIC will prepare the Form 13479. See IRM 5.8.3.5, Processing Application Fees, for instructions on preparing and processing the Form 13479.

- Use one line on the report for each remittance. One offer may have more than one line completed on the Form 13479, if accompanied by multiple remittances.

**Note:** Do not put more than 5 offers on one form 13479.

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

f. Review submitted documents for an emergency processing request (i.e. "Please Rush," "Urgent Matter," etc.). See IRM 5.8.2.6, Emergency Processing, for their requests.

**5.8.3.4.1**

**Determining Processability**

(1) An offer in compromise will be deemed non-processable if one or more of the following criteria are present:

(a) **Taxpayer in Bankruptcy** – An offer will not be considered during a bankruptcy proceeding. See IRM 5.8.10.2, Bankruptcy.

(b) **Taxpayer did not submit the application fee with the offer** – The application fee of \$150 or the signed Form 656-A, Income Certification for Offer in Compromise Application Fee, must be submitted with each Form 656.

No application fee or payment is required for offers filed solely on the basis of Doubt as to Liability (DATL).

**Note:** The form 656-A applies only to individual taxpayers.

(c) **Taxpayer did not submit the required initial payment with the offer** – If the taxpayer fails to submit either of the following, the offer will be returned as non-processable.

- Lump Sum Cash – 20% of the offered amount or a signed form 656-A, Income Certification for Offer-in-Compromise Application Fee.

**Note:** *A Policy decision was made that if the taxpayer submitted the \$150 application fee and a portion (but not all) of the required initial lump sum payment, the offer would be deemed processable, but not perfected.*

- Short Term and Deferred Periodic Payment – initial payment must be submitted with the offer or a signed Form 656-A, Income Certification for Offer in Compromise Application Fee.

**Note:** The 656-A applies only to individual taxpayers.

The following is interim guidance on processability procedures until the new Form 656 is released. The requirement to include the new stuffer is only valid up to 30 days after the new 656 is released. **A 5-day grace period for application of the TIPRA procedures**

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

***has been implemented, until July 21, 2006. The sites will run dual procedures until expiration of the 5-day grace period.***

If after July 21, 2006, we receive offers on the old Forms 656 they will not be automatically return the offer based solely on the fact that it was submitted on a prior revision of the Form 656. However, we will work the offer under the new guidelines. If the taxpayer used an old form you will treat it as follows:

- 1) If the taxpayer checked "Cash Offer" it will generally be treated the same as a Lump Sum Cash Offer. They must include 20% of the offer amount, with the remaining balance payable in up to 5 installments or 150 calendar days. If the taxpayer submitted the payment or any part of the payment and the application fee or applicable Form 656-A, the offer will be deemed processable and forwarded for perfection. If they did not submit any payment, it will be returned as non-processable. If the offer is deemed non-processable, the new stuffer and the new Form 656 (if available) must be included with the return letter to ensure the taxpayer is aware of the new legislative requirements.

If the taxpayer checked "Cash Offer" and the pay out exceed 5 installments or 150 calendar days, the offer will be treated as a Deferred offer.

**Note:** Anything over 20% will be considered a deposit and is refundable.

- 2) If the taxpayer checked "Short-Term Deferred Payment Offer" it will generally be treated the same as a Short Term Periodic Payment Offer. They must include the 1<sup>st</sup> installment payment and the remaining offer must be payable in 6 to 24 months. If the taxpayer submitted the required payment and application fee or applicable Form 656-A, the offer will be deemed processable. If they did not submit the *entire* payment defined in the offer terms, the offer will be returned as non-processable. If the offer is deemed to be non-processable, the new stuffer and the new Form 656 (if available) must be included with the return letter to ensure the taxpayer is aware of the new legislative requirements.
- 3) If the taxpayer checked "Deferred Payment Offer" it will generally be treated the same as a Deferred Periodic Payment Offer. They must include the 1<sup>st</sup> installment payment and it must be payable in 25 months through the life of the statute. If the taxpayer submitted the required payment and application fee or applicable Form 656-A, the offer will be deemed processable. If they did not submit the *entire* payment defined in the offer terms, the offer will be returned as non-processable. If the offer is deemed to be non-processable, the new stuffer and the new Form 656 (if available) must be included with the return letter to ensure the taxpayer is aware of the new legislative requirements.

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

**5.8.3.4.2**

**Determining Processability for Appeals Collection Due Process Offers**

(1) Apply the same processability criteria as outlined in IRM 5.8.3.4.1, Determining Processability, but do not load these offers on the AOIC.

**Note:** If Collection files a lien while an offer is being investigated; complete the investigation. If the taxpayer files a CDP request because of that lien and the CDP remains open, the offer will become the jurisdiction of Appeals. Collection cannot work any offer that has an open CDP case. Appeals may require the assistance to complete the investigation on complex cases. In those cases, an Appeal Referral Investigation (ARI) may be issued to the field.

(2) CDP offers must be received with the required remittances to meet the basic processability criteria and processing guidelines as outlined in IRM 5.8.3.5, Processing Application Fees. These offers will not be controlled on AOIC and will require special handling as follows:

- Payments made on offers not controlled by the AOIC program must be processed manually with a specially designed RACS numbering scheme.

The following numbering scheme should be used in place of the offer number on the Form 13479, COIC Remittance Tracking Report, and Form 2515, Record of Offer-in-Compromise:

- The first two digits should be 17 (Memphis COIC) or 18 (Brookhaven COIC), as appropriate.
- The third digit should designate the type of offer (i.e.1 for Appeals)
- The fourth and fifth digits should be the Appeals AO where you are sending the case.
- The six and seventh digits should be the Year
- The remaining three digits should be the sequence #.

(The RACs number should be 10 digits. Example: 1714806123.

- Assign one RACS number per offer. Up to 5 offers may be listed on each Form 13479.
- Maintain a log of manually assigned RACS numbers.

**Note:** The payment date on the Form 2515 must be the IRS received date.

(3) Appeals will provide COIC with both processable and non-processable determination letters containing all necessary information, including the Appeals contact information on Form 3210, Document Transmittal. Appeals will provide two (2) copies of Form 3210.

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

One is for COIC clerical filing and the other will remain with Form 656 and related documents. It is the responsibility of COIC to sign, date, and mail the applicable letter based on the processability determination.

If...	Then...
The offer is non-processable and a remittance was attached	<ol style="list-style-type: none"> <li>1) Prepare the non-processable letter and the Form 656 to mail to the taxpayer in accordance with the procedures in IRM 5.8.3.5.</li> <li>2) Fax a copy of the non-processable letter to the Appeals employee. The Appeals employee name, fax number, should be noted on the Form 3210, Document Transmittal. Also, include a copy of the 2515 showing the designation of the monies received with the offer; noncompliance issues; requirement if additional forms and fees.</li> </ol> <p><b>Note:</b> The Form 3210 should remain with the case until a Processability determination has been made. A copy should be retained by the Clerical staff in Appeals.</p>
The offer is non-processable and no remittance was attached	Prepare the non-processable letter and the Form 656 to mail to the taxpayer in accordance with procedures in IRM 5.8.3.5, Processing Application Fees.
If the offer is processable and a remittance is attached	<ol style="list-style-type: none"> <li>1) Access the Appeals Fee Screen application of AOIC and input the fee and payment data.</li> <li>2) Input the Appeals employee information noted on the Form 3210, Document Transmittal, and the Appeals Fee Screen history.</li> <li>3) Document the payment type, application of the funds, and taxpayer designation, if any, on the Form 3210.</li> <li>4) Write the application fee serial number on the upper left corner of the Remittance.</li> <li>5) Prepare the Form 13479, COIC Application Fee Tracking Report, in accordance with IRM 5.8.3.5.1</li> <li>6) Mail the processability letter to the taxpayer.</li> <li>7) Send a copy of the letter and the original</li> </ol>



**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

	offer package to the designated Appeals employee on a Form 3210, Document Transmittal. The Appeals employee name, fax number, should be noted on the Form 3210, Document Transmittal. <b>Note:</b> The Form 3210 should remain with the case until the Processability determination has been made. A copy should be retained by the Clerical staff in Appeals.
If the offer is processable and no remittance is attached.  (The taxpayer submitted and qualified for the Form 656-A.)	1) Mail the processability letter to the taxpayer. 2) Send a copy of the letter and the offer package to the designated Appeals employee on Form 3210, Document Transmittal. The Appeals employee name, fax number, should be noted on the Form 3210, Document Transmittal.

(4) When an offer is received in conjunction with a CDP and is deemed to be processable, the COIC site will input the TC 480 on all tax periods relating to the offer submission. This includes the input of a TC 480 on all balance due periods not specifically listed on the Form 656. If the module is an MFT 31, request input of TC 470 with Closing Code (CC90) to suspend collection activity. It will be the responsibility of Appeals to perfect the offer document.

COIC will advise the Appeals/Settlement Officer when it is necessary for the Appeals employee to secure additional Form(s) 656, application fee(s) and/or payments prior to the investigation by generating the letter identifying "Option Y" criteria. See IRM 5.8.3.7, Forms 656 Application Fee and Payment Requirements and Perfection, for examples of these situations. The COIC site will prepare Form 3210 for transmittal of the processable offer back to Appeals. The Form 3210 will include the following information:

- List the specific periods with the TC 480
- Identify an "Option Y" condition
- Copy of 2515 (showing the designation of money; i.e. fee, periodic payment received, 20% or partial payment of 20%)
- Non-compliance issues
- Additional forms, fees, and/or payments

**Note:** It will be the responsibility of Appeals to resolve each TC 480 (e.g. input of TC 481, 482, 483) after Appeals concludes the offer investigation. The Form 2515 should show the IRS received date for the date of the payment.

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

If...	Then...
It is determined the case is still under Appeals jurisdiction and the CDP condition is identified while the offer is still in "U" status, on AOIC	<ul style="list-style-type: none"> <li>• The COIC site CDP coordinator will advise the AO/SO of the processability determination.</li> <li>• The AO/SO will generate and transmit via encrypted e-mail to the COIC site CDP coordinator the appropriate Appeals processable and non-processable letters.</li> <li>• The COIC site will delete the offer record from AOIC and load the application fee information to the Appeals Fee Screen.</li> <li>• The COIC site will follow the procedures in IRM 5.8.3.4.2(2) to process the letter and application fee.</li> <li>• COIC will:               <ol style="list-style-type: none"> <li>(1) Change the offer number on the Form 13479 to the Appeals application fee serial number.</li> <li>(2) Contact Receipt and Control or the Mail Team to change the number on the corresponding remittance.</li> </ol> </li> </ul>
It is determined the case is still under Appeals jurisdiction and the CDP condition is identified after the offer has been deemed processable	COIC will: <ol style="list-style-type: none"> <li>(1) Delete the offer record from AOIC</li> <li>(2) Load the information on the Appeals fee screen.</li> </ol>

(5) Offers submitted directly to the Compliance employee, are occasionally identified as having an open Collection Due Process (CDP) control. When this occurs, the Centralized Offer in Compromise (COIC) site CDP coordinator will research the Appeals Centralized database System (ACDS) to determine:

- If the CDP is still open, and
- If a determination letter has been issued.

**Note:** If the CDP determination letter has not been issued or a withdrawal has not been signed and dated, the offer is considered to still be open and under the jurisdiction of Appeals.

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

**5.8.3.5**

**Processing Application Fees, Offer Payments, and Deposits**

(1) On May 17, 2006, “The Tax Increase Prevention and Reconciliation Act of 2005” (TIPRA) was signed into law by the President. The new law changed the rules for the submission of offers in compromise. The law stipulates that for those offers in compromise received on or after July 17, 2006 must include the application fee, and based on the offer terms, one of the following:

1. *Lump Sum Cash Offers*: the submission of any lump-sum offer in compromise should be accompanied by the payment of 20 % of the amount of the offer. The term “lump-sum” offer means any offer of payments made in 5 or fewer installments.
  - a. If a taxpayer submitted a Lump Sum Cash offer and the terms are a single amount payable in 5 months or 150 days or less, load the offer on the Terms Screen as a “Cash” offer.
  - b. If the taxpayer submitted a Lump Sum Cash offer and the terms are a single amount payable in more than 5 months or 150 days, load the offer on AOIC “Terms Screen” as a “Deferred” offer.
2. *Short Term and Deferred Periodic Payment Offers*: the submission of any periodic payment offer in compromise should be accompanied by the amount of the first proposed installment.
  - a. *Short Term Periodic Payment Offers* – If the taxpayer submitted an offer payable in 6 to 24 months, load the offer on AOIC “Terms Screen” as a *deferred* offer.
  - b. *Deferred Periodic Payment Offers* – If the taxpayer submitted an offer payable through the remaining statutory period, load the offer on AOIC “Terms Screen” as a deferred offer.

**(Note:** *If the taxpayer submits both the application fee and the required initial payment (20 % or first installment) in one check, the \$150 Application Fee will be entered first and the remainder will be applied as the payment amount. A decision if the payment met the offer terms requirement will not be made until a processability determination has been completed. Insufficient remittance of the required initial Lump Sum Cash payment (20%) will be considered a perfection item, while insufficient periodic payments will be deemed non-processable and the offer will be returned to the taxpayer. Processing procedures are addressed in IRM 5.8.3.11,*

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

*Types of Perfection. The law also allows for the taxpayer to designate the payment application. If the taxpayer does not designate the payment application, then the monies will be applied to the earliest unexpired CSED.)*

(2) The required initial payment (20% or periodic payment) will be applied to the taxpayer's liability in all instances. These monies are not refundable to the taxpayer.

(3) Application fees will continue to be refunded to the taxpayer on non-processable offers.

(4) Qualified taxpayers will continue to submit Form 656-A as a waiver to the application fee. Taxpayers who qualify for a waiver of the application fee will also be exempted from the required initial payment. If later during the investigation, the Offer Investigator determines the taxpayer does not qualify for the waiver, the offer will be returned.

(5) Incoming offers will be sorted in the following categories:

- a. Form 656 with check(s) for more than \$150
- b. Form 656 with check for \$150 only and no waiver
- c. Form 656 with waiver and a check for more than the \$150 application fee
- d. Form 656 with check for \$150 and a waiver
- e. Form 656 with waiver only
- f. CDP (with checks)
- g. Out of Area Transfers (with checks)
- h. DATL or Form 656 L (with checks)

(6) If the taxpayer submits only the \$150 application fee and does not submit the required initial payment, the offer will be deemed non-processable upon receipt, and will be returned. These offers must receive expedite processing to generate the return letter and update the AOIC history to meet the 24 hour deposit requirement.

The following are procedures for immediate processing of the non-processable returns due to receipt of the \$150 application fee submitted with a personal check.

- a) One Form 13479 will be completed with **only** those offers to be returned based on the receipt of only the \$150 application fee.
- b) Enter no more than 5 offers per 13479.
- c) Load onto AOIC in "N" status.
- d) Enter \$150 in Column H of the Form 13479
- e) Hand-carry the Form 13479 to the Campus Support Mail Team to get personal checks stamped as "non-negotiable"

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

f) Personal checks stamped “non-negotiable” will be returned to the designated COIC function employee housed in the Campus Support mail area.

g) Personal checks stamped “non-negotiable” will be suspended by the COIC function and maintained in a locked file until the completion of the return package.

h) Personal checks stamped “non-negotiable” and the offer package should be returned to the taxpayer through normal mail out procedures.

**Note:** Once the checks have been stamped non-negotiable and handled according to the procedures above, the offer package should be assigned to a PE for completion of the return letter and offer package.

The following are procedures for immediate processing of the non-processable returns due to receipt of the \$150 application fee submitted with certified funds (money order, bank check, cashiers check, government check).

a) Certified funds will be deposited upon receipt and processed through the normal work stream for both the clerical and process examiner procedures.

**Note:** These payments must be deposited immediately to meet the 24 hour deposit requirement. Certified funds cannot be stamped “non-negotiable” and therefore cannot be held until the return letters can be generated.

b) Request a manual refund by preparing the Form 3753, Manual Refund Posting Voucher.

**Note:** Form 3753 manual refunds on non-processable offers will be processed according to normal manual refund procedures outlined in IRM 21.4.4, Manual Refunds.

c) Prepare the offer package to be returned to the taxpayer.

(7) Management must establish controls to ensure returned offer packages are associated with the “non-negotiable” payment instruments and processed according to the procedures stated in (6) above.

(8) It is possible the taxpayer may submit the \$150 Application Fee, the required initial payment, and a deposit with the Form 656.

- If submitted on **one check**, the required initial payment and a deposit must be entered as one amount on the Form 13479.
- If submitted on **separate checks**, the application fee, required initial payment, and

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

deposit will be entered on separate lines on the Form 13479.

(9) All checks must be deposited within 24 hours, with exception of those personal checks for offers deemed non-processable.

- The \$150 application fee will be deposited to the 4710 Account via Form 13479, COIC Remittance Tracking Report.
- The application fee will be applied to the earliest CSED.

(10) Due to limitations in AOIC programming, the new procedure requires all offers to be loaded in “N” status. Once the offer is deemed processable, the process examiner will update AOIC changing the “N” to a “Y” and process the offer according to the procedures stated in (6) above.

(11) If the offer is deemed non-processable after the check(s) is deposited, prepare the Form 3753, Manual Refund Posting Voucher, to manually refund the \$150 application fee to the taxpayer. Once the offer is deemed non-processable take the following steps:

- Leave the AOIC record in “N” status
- Complete the Form 2515 (Show the IRS Received Date at the payment date)
- Generate the return letter
- Complete the Form 3753
- Document the AOIC history that a 3753 was completed and processed.
- Enter the comment on the Form 3753 to “Refund from 4710 Account” and attach a copy of the Form 13479 as backup.
- Prepare the offer package to return to the taxpayer

Form 3753 manual refunds on non-processable offers will be processed according to normal manual refund procedures outlined in IRM 21.4.4, Manual Refunds.

(12) The required initial payment and deposit (if applicable) will be deposited to the 4710 Account. Once a processability determination has been made, prepare the Form 2515, Record of Offer in Compromise, to move the payment from the 4710 Account to the taxpayer's liability(s) as applicable.

**Note:** In all cases, the initial required and subsequent payments will be applied to the taxpayer's account, whether the offer is deemed processable or non-processable. These funds are non-refundable and should be moved immediately to post to the taxpayer's account (either as designated by the taxpayer or to the Government's best interest if not designated). ***This does not include overpayments considered to be deposits or application fees. Deposits and application fees may be refundable.***

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

(13) If the taxpayer also submitted a deposit and the offer is non-processable, the deposit should be refunded to the taxpayer. Prepare the Form 3753, Manual Refund Posting Voucher, to refund the deposit from the 4710 Account and forwarded to MOIC for processing. Annotate the AOIC history screen.

(14) If the amount submitted as the required initial payment exceeds the amount required and there is no indication of why the amount exceeds the requirement, the entire amount less the \$150 application fee (one check) will be deposited into the 4710 account. Any amount over the required payment will be treated as a deposit and is refundable to the taxpayer.

(15) If the taxpayer submitted one check and the amount submitted exceeds the required amounts, and the taxpayer indicated how the payment should be applied (for example, a deposit or an estimated tax payment), process the amount according to the taxpayer's designation. Any payments **other than** the application fee, required initial payment, or deposit must be processed on Forms 2424 with the appropriate transaction code and designated payment code (DPC). For example, an estimated payment will be a TC 430 (IMF) (TC 660 for BMF payments) instead of TC 670. This determination will be made by the process examiner when making a processability determination and applying payments on the Form 2515 (using the IRS received date as the payment date).

If the taxpayer submitted multiple checks:

- Process the \$150 application fee check, the required initial payment, and any deposit, on the Form 13479
- Additional payments submitted through individual checks will be processed on Form 13479 and Forms 3244 and processed thru manual deposit procedures. Prepare a separate Form 13479 for these payments. Hand carry the Form 13479 and attached Form(s) 3244 and check(s) to the Campus Support Mail Team for processing.

The following "If and Then" table states the criteria for processing on the above sorts:

If you receive a...	Then...
a) Form 656, the \$150 application fee and required initial payment and the terms of the offer is lump-sum or periodic payment  (Item a from the sort above)	1) Load the offer in "N" status and complete the Entity and BOD screens. 2) Document the case history with check application information, including the Batch Number. 3) Complete the Form 13479, COIC Remittance Tracking Report, by entering the following: a. Offer Number b. SSN/EIN c. Name Control

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

	<ul style="list-style-type: none"> <li>d. Check Amount</li> <li>e. Check Number</li> <li>f. Check Type</li> </ul> <p>4) Generate Form 2515, Record of Offer-in-Compromise for the total amount of the check(s).</p>
<p>(b) Form 656 with the \$150 application fee and no required initial payment (20% or first installment payment)</p> <p>(Item b from the sort above)</p>	<p>Offers received with a check for the \$150 application fee only are deemed non-processable upon receipt and will be sorted by the clerical function during the "fine" sort.</p> <ul style="list-style-type: none"> <li>1) Load the offer in "N" status.</li> <li>2) Update the AOIC history documenting that the offer is non-processable.</li> <li>3) Complete the Form 13479, COIC Remittance Tracking Sheet, for a non-processable return.</li> <li>4) If the taxpayer submitted a personal check, send the Form 13479 and check to the Campus Support Mail Team for stamping of the personal check as non-negotiable as appropriate.</li> <li>5) If the taxpayer submitted certified funds (money order, certified check, etc.) the funds will be deposited and the offer worked through normal procedures.</li> </ul>
<p>(c ) Form 656 from an individual taxpayer with both a \$150 application fee and a signed Form 656-A certification, and the required initial payment</p> <p>(Item c from the sort above)</p>	<ul style="list-style-type: none"> <li>1) Complete the AOIC Entity Screen and the Form 13479, COIC Remittance Tracking Report, to treat the \$150 as the deposit.</li> <li>2) Process the required initial payment according to the offer terms.</li> <li>3) Prepare the Form 2515, Record of Offer in Compromise</li> </ul>
<p>(d). Form 656 from an individual taxpayer with both a \$150 application fee and a signed Form 656-A certification, and no required initial payment</p> <p>(Item d from the sort above)</p>	<ul style="list-style-type: none"> <li>1) Process the remittance as the application fee. The required initial payment will be waived in accordance with the Form 656-A.</li> <li>2) Document the receipt of the \$150 application fee and the Form 656-A. If appropriate, document that the required initial payment (according to the offer terms) was waived.</li> </ul> <p><b>Note:</b> If during investigation, the offer examiner determines the taxpayer does not qualify for the waiver, secure the required initial payment. If the taxpayer does not respond with</p>



**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

	the required payment, the offer will be a processable return.
(e) Form 656 with a signed Form 656-A certification (instead of the \$150 fee)  (Item e from the sort above)	Complete the AOIC Application Fee screen and input "LI" in the "Waiver Criteria" field.
(f) CDP Form 656  (Item f from the sort above)	<ol style="list-style-type: none"> <li>1). Complete the Form 13479, COIC Remittance Tracking Report by entering the following: <ol style="list-style-type: none"> <li>a. RACS number</li> <li>b. Offer Number</li> <li>c. SSN/EIN</li> <li>d. Name Control</li> <li>e. Check Amount</li> <li>f. Check Number</li> <li>g. Check Type</li> <li>h. The \$150 Application Fee</li> <li>i. Amount of the Required Initial Payment and deposit, if any</li> </ol> </li> <li>2) Prepare the Form 2515, Record of Offer in Compromise</li> <li>3) Complete the CDP AOIC Remittance Screen</li> <li>4) Process in accordance with IRM 5.8.3.4.2</li> <li>5) Document the AOIC history with payment application information.</li> </ol>
g) Out of Area Transfers  (Item g from the sort above)	Process according to the procedures outlined in (a) above as appropriate. The offer will be transferred to the correct area office once a processability determination has been made and the required initial payment applied to the taxpayer's liability as appropriate.
h) DATL offer (Form 656 L) for a TFRP only liability with a separate application fee  (Item h from the sort above)	<p>Return the \$150 fee using combo letter "A" and optional combo letter paragraph "AM".</p> <p>(Subject to change once the combo letter is revised.)</p> <p><b>Note:</b> DATL offers (Form 656 L) are still exempted from fees and payments. Any fee or payment will be treated as a deposit.</p>
i) DATL offer (Form 656 L) for a TFRP only liability with a single remittance	Apply the entire amount as a deposit to the offer. Complete the Form 13479,

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

that represents both an application fee and a deposit.  (Item f from the sort above)	COIC Remittance Tracking Report, as described in IRM 5.8.3.5.1 below. Prepare Form 2515.  <b>Note:</b> DATL offers or Form 656 L is still exempted from fees and payments. Any fee or payment will be treated as a deposit.
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(16) **Subsequent Periodic Payments** made during the offer investigation must be deposited within 24 hours of receipt via Form 3244, in accordance with the Discovered Remittance procedures outlined in IRM 3.8.4.6.1, Discovered Remittances.

- Process the check through the Manual Deposit function at the Cincinnati Submission Processing Center.
- Forward the Campus Support Mail Team with instructions to process the check through manual deposit.
- If the payment is submitted on the Form 656-PPV, Partial Payment Voucher (See figure 1 below):
  - Process the payment as described above
  - Notate on the Form 656-PPV application of the payment
  - Forward the Form 656-PPV and/or a copy of the Form 3244 to the employee assigned the case
  - Document the case history

These payments are non-refundable and should be applied to the earliest liability or as designated by the taxpayer.

#### **5.8.3.5.1**

#### **Completing the Form 13479, COIC Remittance Tracking Report**

(1) The COIC sites must prepare Form 2515, Record of Offer in Compromise, and Form 13479, COIC Remittance Tracking Report, and extract checks upon receipt of the offer.

(2) The checks and Forms 2515, Record of Offer in Compromise, will be associated with the applicable Form 13479 and forwarded to the Campus Support Mail Team **within 24 hours of receipt**.

**Note:** A Form 2515 must be generated on each offer listed on the Form 13479 in which all payments related to the check submitted with the offer will be journalized to the 4710 Account. Each check submitted by the taxpayer will be listed on separate Forms 2515. A copy of the Forms 2515 must accompany the Form 13479 for deposit and a file copy must remain with the offer until a processability determination has been

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

made.

- Load the offer on AOIC in “N” status and complete the AOIC entity screen with the required information.

**Note:** Due to the implementation of the new TIPRA Law, AOIC will require re-programming. AOIC requires offers be updated to “N” status to allow the depositing of monies to the 4710 account and a subsequent reduction of the taxpayer’s liability on Master File. Loading the offer in “N” status is only a temporary procedure until AOIC has been re-programmed to accept the TIPRA offers in “U” status.

(3) Offers with remittances will be batched with the Form 13479, COIC Remittance Tracking Report, for processability determinations. Each check should be put on a single line of the Form 13479. Offers submitted with separate remittances for the application fee, required initial payment, and a deposit will have entries on three lines, while an offer submitted with a single remittance that combines the application fee, required initial payment, and deposit will have only one entry. Batch integrity must be maintained throughout the processability determination.

(4) It is anticipated that taxpayers will only submit the required payment and will not submit a deposit in addition to the required payment. The instructions in paragraph (5) below are based on this assumption.

(5) COIC will batch the checks, attach the associated Form 13479 and Forms 2515, and forward to the Campus Support Mail Team **within 24 hours of receipt** of the offer. Checks will be processed through the Payment Check Conversion (PCC) system and deposited upon receipt by the Campus Support Mail Team.

- a. All payments (application fee, 20% or first installment, and deposit) will be deposited or journalized to the 4710 Account.
- b. With the exception of deposits, monies will be moved from the 4710 Account and applied as payments to taxpayers’ liability accounts once a processability determination has been made. The \$150 application fee will be moved to the 2395 account.

(6) No more than five offers should be entered on a tracking sheet. CDP offers will be handled and processed as priority offers. There must be no more than 5 CDP offers per Form 13479.

(7) Complete the Form 13479 as follows:

- a. Column A: Enter the AOIC offer number
- b. Column B: Enter the taxpayer SSN/EIN

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

- c. Column C: Enter the taxpayer name control
- d. Column D: Enter the Money Order/Check amount
- e. Column E: Enter the Money Order/Check Serial Number
  
- f. Column F: Enter the acronym for the type of payment instrument:
  - 1. Money Order – MO
  - 2. Personal Check – PC
  - 3. Cashier Check – CC
  - 4. Bank Check – BC
  - 5. Government Check – GC
  
- g. Column G: Enter the amount of any miscellaneous payment (e.g. ES payment)
  
- h. Columns H: Check whether the offer was determined to be non-processable and the check was either a negotiable or not negotiable return.
  
- i. Column I: Secure the initials of the Campus Support person receiving the 13479.

(8) Completed Forms 2515 and Forms 13479, COIC Remittance Tracking Report, and the attached checks must be hand carried to the Campus Support Mail Team for deposit. Entries in Columns G and H combined must equal to the amount entered in Column D. The Form 2515 and Form 13479 must be accurate before being released to the Campus Support Mail Team. The Campus Support Mail Team will complete processing and deposit of the checks in accordance to their IRM procedures. No further interaction between COIC and the Campus Support Mail Team is necessary once the Form 13479 and the related checks are released into their possession. Secure the Campus Support Mail Team employee's initials on the Form 13479 before releasing the form and related checks to them.

(9) Management will establish controls for checks & balances to ensure Forms 13479 are prepared correctly and balance in all columns before releasing to the Campus Support Mail Team. All out of balance conditions must be resolved by COIC prior to releasing to the Campus Support Mail Team.

**Note:** COIC is responsible for resolving all outstanding issues on the application fees and the required initial payments. MOIC performs a monthly trial balance on the 4710 Account and if the account fails to balance, they will consult with COIC to resolve any outstanding issues.

(10) All offers must have a processability determination made within 14 calendar days of the IRS receipt date. Upon assignment to the Process Examiner (PE), the manager will ensure that the "PE Received Date" and "PE Assignment Number" fields on the Form 13479 are accurately completed within the required timeframe.

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

**Note:** Once a processability determination has been made, the process examiner will annotate the file copy of the Form 2515 for the application of payments, if different from the original annotations made when the Form 2515 was generated.

(11) The TIPRA law stipulates that the taxpayer can designate the application of the 20%/first installment payment. Payments will be applied as designated.

**Note:** The application fee cannot be designated and will be applied to the taxpayer's liability account in the best interest of the Government

(12) Once a processability determination has been made, the process examiner will be responsible for the accuracy of the completion of Form 2515. The process examiner will:

- Annotate on the Form 2515 that the application fee and required initial payments will be applied to the taxpayers' liability from the 4710 Account (only changes needed from the original annotations). If the payment is designated, the process examiner will annotate the payment designation according to the taxpayer's instruction. If the payment is not designated, MOIC will apply the payment to the taxpayer's liability account that is in the best interest of the Government.
- Determine if the payment met the requirements for the offer terms
- Document any deficiencies
- Issue the combo letter, if appropriate.
- Annotate the AOIC history

(13) Once a determination has been made on all the offers listed on the Form 13479, the PE will complete the "PE Completion Date."

(14) Once an offer is deemed non-processable, the process examiner will:

- Annotate the Form 2515 to appropriately apply the payment indicating the application fee will be refunded and that the required initial payment will be applied to the taxpayer's liability account.
- Prepare the Form 3753 to manually refund the application fee
- The required initial payment will be applied to the taxpayer's liability account. If the required initial payment was designated by the taxpayer, the process examiner will record how the payment is to be applied.
- Annotate the AOIC history

(15) Management must establish controls for checks & balances to ensure all Forms 13479 are prepared correctly and balance to all processing forms (Forms 3753, Manual Refund Posting Voucher, and Forms 2515, Record of Offer in Compromise) attached to the Form 13479 before forwarding to MOIC for processing. All out of balance situations

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

must be resolved by COIC prior to forwarding to MOIC.

**Reminder:** All 3753's must be signed by a manager.

**5.8.3.5.2 (New)**

**Processing Forms 13479, COIC Remittance Tracking Report, After Processability Determinations**

- (1) Forms 13479 will be returned for processing of the attached Forms 2515, Record of Offer in Compromise, and Forms 3753, Manual Refund Posting Voucher, after processability determinations have been made.
- (2) All completed Forms 13479 will be retained in COIC and filed in "batch number."
- (3) If the offer was determined to be processable, forward the related Forms 2515, Record of Offer in Compromise, to MOIC for processing with a copy of the Form 13479. The Form 13479 serves as the transfer transmittal.
- (4) If the offer was determined to be non-processable, forward the related Forms 2515, Record of Offer in Compromise, and Form 3753 to MOIC for processing with a copy of the Form 13479. The Form 13479 serves as the transfer transmittal.
- (5) The COIC sites will retain processable offers for further OIC processing and assignment.
- (6) All forms should be forwarded to MOIC on an expedite basis
- (7) Not processable offers (with the exception of offers returned because only the \$150 application fee was submitted via a personal check) will be returned to the clerical function with the associated Form 13479, Forms 2515, Record of Offer in Compromise, and 3753, Manual Refund Posting Voucher. The PE will prepare the return letter and envelope for mail out. The following actions must be taken:
  - a. Date and sign the return letter
  - b. Include with the letter and any other associated documents
  - c. Seal the envelope for mail out.
  - d. Close with final disposition 10 on AOIC.
  - e. Include the stuffer and the new Form 656, if available, informing the taxpayer of the legislative requirements for submission of the offer.
  - f. Return to the clerical function to be mailed

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

**Note:** if the offer is being returned due to the taxpayer submitting only one \$150 personal check, do not seal the envelope. The clerical function must associate the check with the offer package before it is returned.

**5.8.3.6**  
**Dishonored Application Fee Payments**

(1) Accounting Branch will hand carry or fax copies of dishonored application fee checks to the COIC site that originated the Form 13479. Upon notification of a dishonored application fee payment and/or the required initial payment, the site will determine the current AOIC offer assignment by querying the offer number annotated on the upper left hand corner of the check. For Appeals CDP offers, see IRM 5.8.3.6.1(3).

**Note:** Due to AOIC programming, only the assigned office can gain access to the “Action CD” field of the “Application Fee” screen to input the dishonored check status.

2) If the payment has been applied from the 4710 Account to the Master File, The dishonored Check function will reverse the payment with a TC 671 on the taxpayer's liability account. If the dishonored Check function fails to properly notified COIC/MOIC of the dishonored payment, the dishonored check can be identified by the posting of a TC 671.

**5.8.3.7**  
**Forms 656 Application Fee, TIPRA Payments, and Perfection**

(1) Treasury Regulation § 300.3 requires taxpayers to submit one fee and TIPRA payment for each Form 656 received, if no Form 656-A was submitted. The table below is intended to assist in identifying a processable offer for application fee purposes and provide guidance to advise the taxpayer when more than one Form 656 application fee, TIPRA payment, or Form 656-A should be submitted. In the following scenarios the status of the taxpayer is not relevant (e.g. married, separated, or divorced). The general rule is that there should only be as many Forms 656 as there are entities seeking to compromise. The following scenarios assume all processability criteria (other than for the application fee) are met.

Scenario	Procedures
1) Two TPs have joint liabilities only. The TPs jointly submit one Form 656 and one \$150 application fee and TIPRA payment.	One offer was submitted therefore one fee is required.
2) Two TPs have joint liabilities only. The	Two offers were submitted; therefore two

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

<p>TPs submit two Forms 656, but only one \$150 application fee and TIPRA payment without a signed Form 656-A.</p>	<p>application fees and TIPRA payments are required.</p> <p>Return both offers as not processable. Follow procedures defined in this IRM to return the offer to the Primary SSN.</p>
<p>3) Two TPs have separate liabilities only. The TP submit two Form 656, but only one \$150 application fee and TIPRA payment were submitted without a Form 656-A.</p>	<p>Follow direction in Scenario 2 above.</p>
<p>4) Two TPs have joint liabilities and one or both of the TPs also have separate liabilities. The TPs submit one Form 656 listing both the joint and separate liabilities and only one \$150 application fee and TIPRA payment without a signed Form 656-A.</p>	<p>Although it is a policy of the Service to require separate offers when TPs have both joint and separate liabilities, the offer in this scenario will be processable. However, the Service can require the taxpayers to perfect the original by submitting a new offer to separate the liabilities. In this instance, the new offer will require a second fee. When requesting the perfection of an offer that requires the submission of a second offer, sent the TPs two Forms 656:</p> <ul style="list-style-type: none"> <li>• Prepare an “amended/revise” Form 656 by completing items 1 through 5 with the entity and tax liability information of the individual with the primary SSN on the joint liability. Include both joint and separate liabilities in item 5. Note the original offer number on the top of the “Amended/Revised” Form 656.</li> <li>• Prepare a second Form 656 by completing items 1 through 5 with the entity and tax liability information of the individual with the secondary SSN on the joint liability. Include both joint and separate liabilities in item 5. Annotate the top of the Form 65 in red “Related to Offer Number _____,” inserting the number of the original offer. This will help identify the offer submitted in response to a perfection request. Note: Clerical units should be aware that new offers received in the PO Box designated for response</li> </ul>



**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

	<p>correspondence must keep all correspondence and attachments associated with the offer to assist in the identification of the relate.</p> <ul style="list-style-type: none"> <li>• Include Option "Y" in the combo letter</li> <li>• Include Form 656-A and the copy of the original Form 656 with the combo letter.</li> </ul> <p>If the TPs refuse to perfect the offer, the Service will return the offer without any further consideration.</p>
5) One Form 656 is submitted that includes both corporation or partnership and individual liabilities, but only one \$150 application fee and TIPRA payment without a signed Form 656-A for the individual.	Follow the procedures outlined in Scenario 4 above.
6) Two taxpayers have joint liabilities either or both of the taxpayers also have separate liabilities. The taxpayers submitted two Forms 656 listing the joint liability on one and the separate liability on the other, but only one \$150 application fee and TIPRA payment.	<p>Since the taxpayers submitted two offers, they require two fees and payments. Only load the joint Form 656, treating it as processable and including the separate liabilities on the MFT screen. Follow procedures in Scenario 4 above.</p>

### **5.8.3.8**

#### **Centralized Offers in Compromise Processability Determinations**

(1) COIC sites determine offer processability. To accomplish this PEs must take the following actions:

- a. Determine if the taxpayer is in bankruptcy.
- b. Check for any freeze codes such as: -Y, -W, -Z, -A, -V, -L that may require special action. Freeze codes indicating CID, bankruptcy, Exam issues (i.e. AIMS), duplicate return filed, other litigations should be worked in accordance to guidelines in this IRM.
- c. Check all SSN, EIN, and ITINs known or found for the taxpayer. At a minimum check the following IDRS command codes: ENMOD, INOLES, CFINK, BMFOLI, SUMRY, and IMFOLI. If any data is found, print and include it in the file. Also, research IDRS command codes TXMOD and FFINQ for additional data, but it is not necessary to include printed copies in the file.
- d. Verify that the taxpayer has submitted the appropriate Form 656, Form 433-A, and/or 433-B.

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

e. Verify that the taxpayer has submitted the application fee and required initial payment (or signed Form 656-A) for each offer submitted.

f. During the initial analysis, AOIC should be documented of any findings.

(2) Review AOIC and the history for any previous offers to determine if the offer was submitted “solely to delay collection.” See IRM 5.8.3.19, Offers Submitted Solely to Delay Collection.

(Note: eliminated compliance as processability criteria.)

**5.8.3.9**  
**Not Processable**

(1) When returning the offer as non-processable, the return letter should specify all reasons for the determination.

(2) If the offer is non-processable:

- a. Do not change the AOIC “Proc Cd” field. It should remain in “N” status.
- b. Prepare the return letter
- c. Stamp the Form 656 “RETURN” in red (or circle the date in red if a red ink stamp is not available) and write the date that the offer was determined to be non-processable.
- d. Cross out all IRS received dates with a red “X.”
- e. In addition to identifying the reason(s) for the determination, also address any issues concerning combined joint and separate liabilities, if appropriate; for example, individual and corporate or partnership liabilities on one Form 656. In those cases include Option “AF” in the return letter.
- f. Annotate the AOIC history with the payment information and specifying the reason(s) for the non-processable determination.
- g. Annotate or update the Form 2515 indicating that the offer is “non-processable” and the application fee of \$150 should be refunded to the taxpayer.
- h. Prepare the Form 3753 to forward to MOIC for completion of the manual refund.

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

**Note:** The entries on the Form 2515 and Form 3753 must equal to the check(s) amount(s) recorded in column D on the Form 13479. The Form 13479 and associated documents are returned to COIC clerical for processing.

- i. Associate the Form 3753 and Form 2515 with the related Form 13479.
- j. Forward the Form 13479 to the Clerical Staff for processing.
- k. Do not sign the Form 656 pending.
- l. Managers and journey level PEs may sign and date the letter and close the case on AOIC with a final disposition code of 10.
- m. Send the Form 656, the Return letter, Pub 1 and 594 to the taxpayer along with all other documents originally sent. If a POA is present, send the representative a copy of the letter. If disclosure issues exist, use the appropriate paragraph to indicate this in the return letter, and do not send a copy to the representative.
- n. If a Form 656 was forwarded by an RO and is non-processable, the COIC site should also forward the Form 657 and a copy of the “non-processable” letter to the approving official of the Form 657.

(3) Caution should be exercised to ensure that no IDRS prints or other internally generated documents are sent to either the taxpayer or the POA. All internal documents should be destroyed. Nothing is required to be maintained in local closed files on these cases.

(4) If the offer was originally determined processable and the application fee was deposited, but it was later concluded that this determination was made in error, processing should stop. The case should be closed using non-processable procedures defined above. In these cases, it is important to ensure the “N” is input on AOIC to reverse the TC 480s. This will result in the generation of a TC 483 posting to the appropriate modules, and a refund of the \$150 application fee.

#### **5.8.3.10**

##### **Processable**

(1) An offer is considered pending when a delegated IRS official signs and dates the Form 656, Offer in Compromise, in the appropriate section. This date is the official offer pending date.

**Note:** The pending date entered on AOIC must match the date the delegated official signed the Form 656. This date must also match the Transaction Code (TC) 480

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

date when it posts to IDRS.

(2) If the offer is processable:

- a. Sign and date the waiver on Form 656
- b. Change the "Proc Cd" to a "Y" (processable)
- c. Complete the AOIC Application Fee Screen
- d. Complete the MFT and "Terms" screen on AOIC.
- e. Annotate the remarks section of the Form 2515 the payment application (e.g. 20%/first installment, \$150 application fee and any deposit, if applicable).

**Note:** If the taxpayer designated the payment, enter the appropriate information in the remarks section of the Form 2515. If the taxpayer also submitted a deposit separate from the required payment, split the difference and enter the required payment according to the offer terms and annotate the difference as the deposit. Only the application fee and required payment will be applied to the tax payer's liability account. The deposit will remain in the 4710 Account until the offer is either worked to a return, rejection or acceptance.

- f. Associate the Forms 2515 with the related Form 13479 and retain a copy in the case file.

**Note:** The entries on the Form 2515 must equal to the check(s) amount(s) recorded in column D on the Form 13479. The Form 13479 and associated documents are returned to COIC clerical for processing.

- g. Document the AOIC history with the payment type and application of the funds (e.g. one check received in the amount of \$650. Applied monies in the following: \$150 application fee; \$300 payment; \$200 deposit).
- h. On all IMF cases enter "P" if the offer is for the primary taxpayer of the controlling taxpayer identification number (TIN) on the entity, enter "S" if the offer is for the secondary taxpayer, or enter "B" if both husband and wife are making a joint offer.

If only one party of a joint liability is submitting the offer, remove the "Y" from the MFT screen. This will take the case out of Status 71.

**Note:** If tax periods are in status 60, 61, or 53 (except for those status 53 modules

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

with Closing Code "03" [unable to locate] or Closing Code "12" [unable to contact]) remove the "Y" on each tax period on the MFT screen. DO NOT change the status of those accounts, unless the taxpayer has defaulted the installment agreement.

(3) Generate the Full Pay Worksheet from AOIC and retain a copy in the case file.

(4) Communication with the taxpayer and/or authorized representative may be necessary to perfect the offer while it is pending. This communication may be completed by letter or personal contact.

If processable and...	Then...
The offer requires perfection due to an insufficient number of Forms 656 and application fees, required initial payments, or unfiled returns	Except for examples in IRM 5.8.3.7, Form 656 Application Fee Requirements and Perfection, send the combo letter to request the following information: <ul style="list-style-type: none"> <li>• Correct number of Forms 656 and fees (Option "Y" perfection)</li> <li>• Correct amount of the required initial payment(s)</li> <li>• Any required financial substantiation</li> <li>• Any unfiled returns</li> <li>• Any additional Form 656 perfection, including incorrect or old forms</li> <li>• Assign to "5100"</li> </ul>
The offer does not need perfection in the following categories and falls under the criteria for direct field transfer. <ul style="list-style-type: none"> <li>• Option "Y"</li> <li>• Unfiled return</li> </ul> See IRM 5.8.2.2, Initial Receipt of Offers for additional information and IRM 5.8.3.13, Centralized Offer in Compromise Case Building and Perfection Procedures for additional information.	Reassign on AOIC to the appropriate area office.
The offer does not need Option "Y" perfection and qualifies under the "Screen for Obvious Full Pay" procedures. See IRM 5.8.3.12, Screen for Obvious Full Pay.	Process under "Screen for Obvious Full Pay" procedures.
The offer does not need Option "Y" perfection and does not qualify under	<ul style="list-style-type: none"> <li>• Assign to "5100"</li> <li>• Send the combo letter to address all</li> </ul>

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

“Screen for Obvious Full Pay” procedures, but all required financial substantiation is not attached or needs Form 656 perfection before beginning the investigation	perfection issues and request the required substantiation, including incorrect or old form(s).
The offer does not need Option “Y” perfection and does not qualify under “Screen for Obvious Full Pay” procedures and has attached all required substantiation except for proof of payment of certain expenses.	<ul style="list-style-type: none"> <li>• Send the combo letter to request substantiation and Form 656 perfection, if appropriate, including incorrect or old form(s)</li> <li>• Check internal verification sources</li> <li>• Assign the case to “5300”</li> </ul> <p><b>Note:</b> If the taxpayer has provided a substantial amount of the information and a determination can be made, assign the case to “6000”</p>
The offer does not need Option “Y” perfection and does not qualify under “Screen for Obvious Full Pay” procedures and is a total submission	<ul style="list-style-type: none"> <li>• Send the combo letter, Option “A”</li> <li>• Check internal verification sources</li> <li>• Assign to “6000”</li> </ul>

(5) If an offer was submitted by an RO and it is processable, but the RO has determined that the offer was submitted “solely to delay collection,” the COIC site will contact the originating RO to advise that the return letter has been issued. Unless a jeopardy situation exists, the RO must wait for COIC notification that the return letter has been issued before taking any collection enforcement action. See IRM 5.8.3.19, Offers Submitted Solely to Delay Collection, for delegated approval authority.

(6) COIC will request Transaction Code (TC) 480 and Status 71 through the AOIC system. However, there may be situations when the Status 71 will not generate (e.g. MFT 31 modules created prior to January 2005, imminent statute, etc.). In those cases, the field Offer Specialist may request input of the TC 470 with Closing Code (CC) 90 to suspend collection activity.

(7) Taxpayer’s that submit a partial payment offer are required to continue making regular payments during the investigation process. It may be necessary for the Offer Investigator (OI) working the case to monitor the payments. Until AOIC programming can be completed, the OI may use a calendar, tickler file, notating the follow up date on the front of the file folder, or something similar to ensure the taxpayer remains compliant with the legislative requirements.

(8) Send the taxpayer the Forms 656-PPV (See figure 2 below) with instructions for completion. The fill in paragraph may be use to inform the taxpayer that payments must be made during the investigation process and to use the Form 656-PPV when submitting the payment. It is recommended that this form be included with the Combo letter.

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

(9) It is the responsibility of the Offer Investigator to monitor the payments and to ensure they are correctly applied to the taxpayer's account(s). If an error is discovered, the Offer Investigator (OI) must take the corrective actions. The OI may need to research IDRS to determine that the payments have been appropriately applied.

- The OI should prepare a 4442, Inquiry Referral, to correct the payment posting.

(10) During the offer investigation, if the taxpayer fails to make the periodical payments the Offer Investigator (OI) must attempt one phone call to notify the taxpayer of the need to make that payment. If no contact by telephone can be made, a letter must be issued to notify the taxpayer of the deficiency. Allow 14 calendar days from the date of the letter for the taxpayer to comply with the request. If the taxpayer fails to respond by the 31<sup>st</sup> calendar day after the date of the telephone contact or letter, the offer will be considered withdrawn. The OI must initiate the appropriate AOIC withdrawal letter, secure managerial approval, and mail to the taxpayer. Document the AOIC history.

#### **5.8.3.10.1**

##### **Erroneous Processability Determinations**

(1) The Service only collects the application fee for processable offers; therefore, fees associated with offers that are initially deemed processable but subsequently determined to be non-processable must be returned to the taxpayer.

(2) All application fees and payments must be deposited within 24 hours of receipt. Because of this requirement, if a case was deemed processable in error the application fee and any deposit must be returned to the taxpayer by requesting a manual refund. When an erroneous processability determination is corrected, prepare the return letter and correct the AOIC fee screen record. Follow procedures in IRM 5.8.3.5, Processing Application Fee and Offer Payments/Deposits, for refunding the application fee.

#### **5.8.3.10.2**

##### **“Application Fee Refund/Apply Listing” Validation**

(1) When an erroneous processability determination is corrected after forwarding the related application fee remittance for deposit, the COIC sites will need to determine whether the remittance has been deposited. An “Application Fee Refund/Apply Listing” should be generated from AOIC to identify application fees that were initially determined to be processable, but later determined to be non-processable. Generation of this listing is required in order for the COIC site to verify and authorize a manual refund.

**Note:** The COIC site should request the Monitoring Offer in Compromise (MOIC)

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

function to generate the "Application Fee Refund/Apply Listing" on a monthly basis.

(2) Generally, when an offer is deemed "non-processable," the Service includes the taxpayers' remittance with the return disposition letter. However, depending on the elapsed time between the processability change on AOIC from a "Y" to an "N," the Service may have already deposited the related application fee.

(3) To determine whether or not manual refunds of the application fee should be issued, research the completed Form 13479 for those offers to determine whether the application fee was deposited by the Service or returned to the taxpayer.

**Caution:** Thorough research and care is required when determining which offers on the "Application Fee Refund/Apply Listing" should receive manual refunds.

If...	Then...
Research indicated that the application fee was returned to the taxpayer(s)	The designated COIC site AOIC liaison should contact the HQ AOIC analyst to make the necessary adjustment to the application fee information to remove from the "Refund/Apply Listing." This action will eliminate the potential for the taxpayer to receive an erroneous refund.
Research indicated that the application fee was deposited	Contact the MOIC function co-located with the COIC site and request a manual refund be generated to the taxpayer(s)

(4) To request the MOIC function to issue manual refunds, the COIC sites must prepare a memorandum that includes:

- The offer number
- The taxpayer(s) name
- The taxpayer(s) identification number (TIN)

(5) Records that support the COIC sites decision to either remove the offer record from the "Refund/Apply Listing" or to issue a manual refund must be retained for one year. At a minimum, the file should consist of:

- Copies of the "Refund/Apply Listing" or memorandum with the requested information
- Copies of the Form 13479
- Any other supporting documentation necessary to support the decision; including, but not limited to the Remittance Processing System daily remittance register.



**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

(6) The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA) does not allow refunds of periodic payments or required initial payments. However, it does allow refunds of the application fee and any deposits the taxpayer may have made. See IRM 5.8.3.5, IRM 5.8.3.5.1, and IRM 5.8.3.5.2 for additional information.

**5.8.3.11**  
**Types of Perfection**

(1) Certain perfection errors must be corrected before beginning the offer investigation. The combo letter on the AOIC system is designed to communicate with the taxpayer and their representative to request the necessary corrective action. If there is no response to the request letter, return the offer to the taxpayer as not perfected. A return for failure to perfect an offer does not require a Form 1271. The taxpayer has no appeal rights when the offer is closed as a return. The following errors must be corrected before beginning the investigation:

- The taxpayers name, physical address or taxpayer identification number (TIN) is missing or incorrect and cannot be determined from IDRS or other documents submitted with the offer.
- The offered amount is blank or zero.
- Insufficient number of Forms 656 and application fee submitted.

(2) When sending a combo letter to perfect the errors listed in (1) above or to request financial substantiation, also include a request to correct the following errors. If acceptance of the offer is considered and a combo letter was not sent but the errors listed below exist, they must be corrected prior to the recommendation to accept the offer.

- The offer was submitted on an obsolete Form 656.
- The Form 656 is not a verbatim duplicate. Such as, preprinted terms of the Form 656 are altered, deleted, or missing.
- An amount of money is offered, but the payment terms are not specific.
- The taxpayer(s) signature is missing on the Form 656.
- Form 433-A and/or 433-B is incomplete.
- The taxpayer has included a period(s) for which no amount is due.
- No tax liability has been assessed or pending.
- Unfiled returns are secured and there is a balance due.

(3) If a period with an amount due is missing from the Form 656, but all periods due can be determined from IDRS or other documents submitted with the offer, add the missing periods to the AOIC MFT screen. Add the missing period(s) to the Form 656. When a taxpayer has included a period(s) for which there is no apparent amount due, do not add the period(s) to AOIC. Contact the taxpayer to determine if any issues are pending that

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

may result in additional tax. If there is no tax due after contact with the taxpayer, document the history and do not add the period(s).

**Note:** Contact may be made by telephone or by sending the AOIC combo letter requesting the deletion of the no tax due period(s) on the amended Form 656. If the taxpayer agrees to the deletion of the no tax due period(s), the history must document the method of agreement by the taxpayer.

(4) If the taxpayer's name, physical address, or TIN is missing or incorrect and the correct information can be located on IDRS or other documents submitted with the offer, input the correct information on AOIC.

(5) If the basis for compromise is not indicated, but it can be determined by reviewing the package, begin the investigation.

**Note:** The offer cannot be accepted unless an amended Form 656 is signed, correcting all errors listed in (1) and (2) above.

#### **5.8.3.13**

#### **Centralized Offer in Compromise Case Building and Perfection Procedures**

(1) For all ***processable offers to be transferred to an Area Office*** the COIC site will request (if applicable):

- Additional Forms 656
- Additional application fees
- Additional required initial payments
- Unfiled returns (IMF and BMF)
- Verify Federal Tax Deposits (FTD)
- Balance of the Lump Sum Cash offer payment

a) *FTD payments* – If the taxpayer is an in-business taxpayer and has open 941 filing requirements, the PE will research the *current quarter only* for FTD payments. If no payments have been made and there is no TC 59X transaction, the PE should include a request for any required FTD payments in the Combo “Y” letter. Timeliness of the payments should not be a consideration.

b) *Balance of the Lump Sum Cash offer payment* – If the taxpayer paid some, but not all of the required 20% Lump Sum Cash payment the PE should also request the balance of the payment.

If the taxpayer failed to provide any of the requested documentation, the offer will be returned as a processable return. If the taxpayer provided all the requested

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

information, except the FTD payments the offer will be assigned to the field for further consideration.

(2) For all processable offers **not transferred to an Area office** or for those qualifying under the “Screen for Obvious full Pay” procedures, the CIS should be reviewed to verify the taxpayer has submitted all supporting documents.

- Prepare the combo letter using the paragraphs that address all deficiencies; such as, insufficient payments, application fees, missing substantiation, unfiled returns, or incomplete documents as well as any Form 656 perfection issues. Include Publications 1 and 594.
- Document the AOIC history to summarize the required substantiation submitted with the offer as well as all perfection issues.
- A copy of the signed and dated letter must be retained in the file.

**Note:** All combo letters will be postdated 5 calendar days. Schedule follow up for the 45<sup>th</sup> day after the date of the letter. Thus, at least 50 calendar days (5 postdate plus 45 calendar days from the date of the letter) would have elapsed before following up.

- Mail the letter to the taxpayer and representative, if applicable. If a disclosure issue exists, use the appropriate paragraph to indicate this in the combo letter, and do not send a copy to the representative.
- Envelopes containing combo letters including Options “B”, “C”, or “D” must be stamped or otherwise marked “URGENT – TIME SENSITIVE” and include Notice 1326, Offer in Compromise (OIC) Applicant ALERT.
- Document the mailing date of the letter on the “I” screen, which will generate the follow up date.
- Assign the offer to AOIC designation “5100” or “5300”, as identified in IRM 5.8.3.10(3) above.

(3) An analysis of the information provided on the CIS or any other documentation received should be made prior to issuing a document request or combo letter.

**Note:** the letter(s) should only request information necessary to make a reasonable collection decision.

(4) TIPRA requires inclusion of a partial payment upon submission of an offer. On Lump Sum Cash offers the taxpayer must include a \$150 application fee and 20% of the offered amount. If the taxpayer sends less than the 20% or the periodic payment indicated on the offer, it will be considered a processable offer and worked accordingly. It will be necessary to request the remainder of the payment when the combo letter is issued.

(5) A taxpayer that has unfiled tax returns will be a processable offer and worked

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

accordingly. It will be necessary to request the returns or a statement addressing the filing requirements.

(6) If the taxpayer submits delinquent tax returns with a balance due, the Offer Investigator will treat the liabilities as missing periods and (1) process the return(s), (2) add the missing periods on the AOIC MFT screen, (3) include the periods on the original Form 656, and (4) continue working the offer. Paragraph (q) on the Form 656 clearly states that "I/We authorize the IRS to amend Item 5, above, to include any assessed liabilities we failed to list on Form 656." With this authority agreed by the taxpayer, we will not require the Offer Investigator to secure an amended Form 656 for the missing periods only.

(7) If the taxpayer indicates that they are no longer required to file a tax return, it will be the responsibility of the Offer Investigator (OI) to close the filing requirements or indicate no liability to file; that is, input of Transaction Code 590 or 591, as appropriate. Refer to Document 6209 Sections 8 and 11 for the appropriate transaction and closing codes and request input of the TC 590/591.

For example, the taxpayer is out of business and is no longer required to file. In the case of a business, if the taxpayer provides information that they are no longer required to file a return (e.g. form 941 or 940) close the filing requirements and work the offer.

If an individual taxpayer indicated that their income was not sufficient and they were not legally required to file and request input the TC 590.

(8) The following information is considered to be necessary to allow the OE the ability to make a determination. If the following expenses were claimed on the CIS but substantiation was not included, supporting documentation should be requested.

- Income statements for the last 3 months (a current year-to-date statement is acceptable as long as it represents at least 3 months).

**Note:** For those taxpayers on Social Security or a fixed pension or retirement where the monthly income does not fluctuate, it may only be necessary to secure one monthly statement to verify the amount of income. In those cases, verification of income may be available through secured bank statements.

If applicable, substantiation for 3 months of income statements for any not liable person should also be requested in order to determine taxpayers share of living expenses. See IRM 5.8.5.5.4 for additional information on the treatment of shared expenses.

- Bank statements for the last 3 months
- The current available cash value or loan value of 401(k), profit sharing or other retirement plans, and the current balance due on any existing loans against that plan. See IRM 5.8.5.3.8 for more information on valuing a Retirement or Profit

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

Sharing plan.

- Sufficient required initial payment (20% or periodic payment)

(9) Substantiation should also be requested for the following information; however, if the taxpayer fails to provide the supporting documentation, the expense should be disallowed and a determination made based on all other information. The following list is not all-inclusive. See IRM 5.8.3.16.

- Health insurance and out of pocket cost for the last 3 months (refer to LEM 5.3)
- Current balance due on motor vehicles
- Court orders and proof of payment for the last 3 months.

**Note:** Court orders will only be required if the payment is to be allowed in the computation of the RCP.

- Current balance due on real estate mortgages
- Child and dependent care for the last 3 months.
- Other secured debt statements for the last 3 months.
- Life insurance premiums for the last 3 months.

#### **5.8.3.16**

##### **Analyzing Taxpayer Responses to Combo or Additional Information Letters**

(1) The failure to provide proof of payment of any CIS claimed monthly expense amounts for health care expenses, court orders/court ordered payments, child/dependent care, life insurance, other secured debt, other expenses, or the failure to submit current loan balance statements for real estate mortgages, or current loan balance statements for motor vehicles will by itself not be sufficient reason to return an offer.

(2) If a court ordered payment is to be acknowledged as an expense, a copy of the court order must be secured to determine the number of months to allow for the remainder of the payments. If the court ordered payment is not to be allowed, a copy of the court order will not be required.

(3) PE/OE will determine if the taxpayers' response or original submission statements and/or documents addressed all requested items even when it may not have specifically included the information sought by the combo letter. The failure to provide the desired information/documents by itself will not be sufficient reason to return an offer, as long as the taxpayer addressed the particular information/document requested.

**Note:** If the taxpayer has substantially replied to the request, but has not provided all the information requested, the case should be assigned to an OE for further

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

review and evaluation on whether an RCP can be calculated. The OE should attempt one phone call to secure the missing information before returning the offer as a "No Reply."

Below are some examples of when a taxpayer may address, while not actually providing the requested substantiation, may include but are not limited to the following:

- Bank statements are provided, but not all pages were included or only 2 months were sent instead of 3.
- Wage statements are provided, but not all pages were included or only 2 months were sent instead of 3.
- The taxpayer indicates an inability to provide a particular requested document (e.g. court order or judgment, annual statement of Social Security annuity amount.).

**Note:** For those taxpayers on Social Security or a fixed pension or retirement where the monthly income does not fluctuate, you may accept only 1 monthly income statement to verify the amount of income. In those cases, verification of income may be available through secured bank statements.

- The taxpayer indicates that they did not understand the request or that all requested documentation is attached.
- The taxpayer indicates that a non-liable person(s) has no income or refuses to provide the substantiation.
- The taxpayer provided a letter of explanation for a missed payment or inability to make the entire payment.

(4) Offers for which the PE/OE determined the taxpayer has substantially replied and/or adequately addressed the requested information and/or documents (even if they did not specifically include them in the response), or where they failed to substantiate certain claimed monthly expenses or loan balances, will be assigned to for further consideration.

(5) If the OE/PE determines that the RCP calculation cannot be completed because of the missing information and/or documents, the OE will attempt to telephone the taxpayer (or representative, if applicable) to secure any needed substantiation, explaining the information is needed in order to conduct the offer investigation. If unable to contact the taxpayer by telephone after one attempt or if the taxpayer/representative is unable to provide the substantiation to the OE within a reasonable amount of time (fax transmission is preferable), document the AOIC history and return the offer for failure to provide necessary information.

(6) If any of the necessary Form 656 perfection errors identified in IRM 5.8.3.11(1) above were not corrected, the offer will be returned. The following conditions assume that the response corrected any perfection errors on the Form 656.

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

If the offer is assigned to "5500" and...	Then...
The response included all required financial substantiation	<ul style="list-style-type: none"> <li>• Check internal verification sources</li> <li>• Assign to "6000"</li> </ul>
The response included all requested financial information/substantiation except proof of payment of mortgage/motor vehicle loan balance, court order, or court ordered payments	<ul style="list-style-type: none"> <li>• Check internal verification sources</li> <li>• Assign to "6000"</li> </ul>
The taxpayer substantially replied or addressed the requested items	Assign to an OE to determine if the information is sufficient to make an RCP calculation
The response neither included nor addressed requested income or bank statements, non-lieable person(s), or 401(k) information	Return the offer

(7) If the taxpayer fails to submit the remainder of the required periodic payment(s) within a reasonable amount of time, the offer will be considered to be a mandatory withdrawal. The OI should issue the appropriate withdrawal letter and mail to the taxpayer.

**Note:** If the taxpayer gives an explanation supporting special circumstances as a reason the funds were not available, the Offer Investigator will continue to work the offer as if the taxpayer had submitted the entire payment. See IRM 5.8.11, Effective Tax Administration, for examples of special circumstances and ETA.

#### **5.8.4.4.1** **Components of Collectibility**

(1) The following four components of collectibility will ordinarily be included in calculating RCP for offer purposes:

Components	Definition
Assets	The amount collectible from the taxpayers' net realizable equity in assets.
Future Income	The amount collectible from the taxpayers expected future income after allowing for payment of necessary living expenses. (a) For Lump Sum Cash offers, if it is to be paid in less than 5 months or 150 calendar days, the amount collectible over the next 48

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

	months; if it is to be paid in more than 5 months or over 150 calendar days, the amount collectible over the next 60 months (b) For Short Term Periodic Payment Offers, it is the amount collectible over the next 60 months (c) For Deferred Periodic Payment offers, it is the amount that is collectible over the life of the collection statute.
Amount collectible from third parties	The amount we could expect to collect from third parties through administrative or judicial action. For example, amounts collectible through assertion of a TFRP, a transferee assessment, nominee lien, or suit to set aside a fraudulent conveyance.
Assets and/or income that are available to the taxpayer but are beyond the reach of the government	Assets that the lien will not attach such as equity in assets located outside the country.

#### **5.8.4.7.1**

##### **Initial Offer Actions**

(1) Within 15 calendar days of the date an offer is assigned to an OE in COIC or within 30 calendar days of the date an offer is assigned to an OS, the assigned employee must complete the following actions:

- a. Analyze the new receipt to determine if sufficient information is available to make a decision regarding the merits of the offer.
- b. If additional information is needed from the taxpayer to reach a decision, issue an additional information request, as appropriate. Where necessary and appropriate, this request should also include verification of the taxpayers' compliance with the current year's ES payments.
- c. If the taxpayer failed to make the appropriate amount of the required initial payment (20% or Periodic Payment), when requesting additional information you must also request the remainder of the payment.
- d. To the extent that information is available, prepare an AET/IET, to make a preliminary projection of case resolution.
- e. If no further information is needed, initiate appropriate follow-up actions to



**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

recommend the disposition of the offer.

f. The initial lien determination should be made and documented.

**Note:** Prior to the issuance of offer cases to the field, COIC will have made all processability determinations and completed initial internal case building acts. In some cases, no additional information will be needed from the taxpayer to complete the investigations. In these situations, the next appropriate action(s) should be scheduled in a manner that ensures the timely resolution of the case.

(2) In situations where the Field Offer Investigators are not co-located with the group manager, an additional 5 days will be allowed from the assignment date to complete the initial case actions. This time accounts for the need to transship the case files to remote locations. Situations where this transit time routinely takes more than 5 days to accomplish should be reported to the Area Offer in Compromise coordinator to determine the cause for the delays.

(3) Generally, the AOIC assignment date will be the assignment date of record.

(4) Prior to the income and expense analysis of an individual offer where the taxpayer submitted a Form 656-A certification, the Offer Investigator will determine whether the household income and family unit size at the time the offer was submitted supported the decision not to pay the application fee or required initial payment. If the Offer Investigator concludes that the income for the family size exceeds the levels for which a Form 656-A certification was allowed (i.e. the taxpayer should have paid the application fee), offer processing should immediately cease. Return the offer using letter code "RET-AB" for failure to pay the application fee and required initial payment.

**Note:** A definition of household is: "The entire household includes spouse, domestic partner, significant other, children, and others that contribute to the household."

(5) If additional information is required to make a decision, contact the taxpayer or POA to request the additional supporting documents. If it is determined no information is necessary issue a decision letter.

(6) The offer investigator may analyze the offer through correspondence, in person, which may include telephone contact, an office visit, or field visit. Letters available on AOIC such as the combo letter or an additional information letter (L-2844) are appropriate to request additional information.

(7) If the request for additional information is in writing the correspondence must include:

a. A list of the specific items/information needed

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

- b. A specific deadline for providing the information
- c. A statement indicating that the offer will be returned without further consideration if all the information is not provided.
- d. The name, phone number, and employee number of the investigating employee
- e. A statement regarding enclosure of Pub 1 & 594
- f. Include Notice 1326, Offer in Compromise (OIC) Applicants ALERT Notice
- g. A statement indicating that a NFTL will be filed if a decision has been made to file a lien
- h. A statement addressing any potential special circumstances (e.g. Effective Tax Administration or Doubt as to Collectibility with Special Circumstance)
- i. Rubber-stamp or otherwise enter on all outgoing envelopes containing requests for additional information "URGENT- Time Sensitive."

(8) If the request for information is in person (e.g. by telephone, office, or field visit) the contact must include the following information:

- a. Verify receipt of Pub 1 & 594. If the first conversation is with the POA, verify that the taxpayer has received these publications. If the response from either the taxpayer or the POA is yes, ask if there are any questions and answer any questions they may have to ensure there is a clear understanding of their rights before proceeding or re-mail the publications to the taxpayer and postpone conversation until they have been received and read.
- b. Address and document any potential special circumstances (e.g. ETA or DATCSC identified during the initial review of documents submitted with the offer.

(9) Cases transferred from one office to another should have an AOIC transfer letter sent within 15 calendar days of the transfer advising the taxpayer of the location of the office where the case has been transferred and providing the taxpayer with a local contact telephone number. Since cases are often reassigned immediately, the taxpayer should be advised of the anticipated date of assignment to an Offer Investigator. A follow up letter should be sent to the taxpayer advising of any delay in assignment if the case is not assigned by the date specified in the original letter.

(10) To eliminate the potential for mis-routed cases, the procedures outlined in IRM 3.13.62, Media Transport and Control, will be followed.

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

- a. the originating office responsible for shipment of the offer files will follow-up within 30 days from the shipment date if the acknowledgment copy of the form 3210 is not received.
- b. If all cases listed on the Form 3210 are not included in the shipment, the receiving office is responsible for notifying the originating office within 10 days of receipt of the Form 3210.
- c. Any and all discrepancies will be resolved within 30 days.

**5.8.4.7.2 (New)**

**Periodic Payments Required With Offer in Compromise Submission**

(1) IRC Section 7122(c), as amended by the Tax Increase Prevention and Reconciliation Act of 2005, requires that offers in compromise submitted on or after July 17, 2006 (and not subject to waiver with respect to low income taxpayers or offers submitted based solely on doubt as to liability) must be accompanied by partial payment of the proposed offer amount. These payments are applied to the tax liabilities included on the offer and are in addition to any application fee imposed. See IRM 5.8.3 for further background.

(2) The form of these partial payments depends on the taxpayer's proposed offer and its terms. A Lump Sum Cash offer (defined as payable in five or fewer payments or 150 calendar days) must be accompanied by a payment of 20% of the amount of the offer. A Periodic Payment (defined as payable in six or more installments) must be accompanied by payment of the first proposed installment and additional installments must be paid in accordance with the taxpayer's proposed offer terms while the Service evaluates the offer.

**5.8.4.7.2.1 (New)**

**Periodic Payments Made During Offer Pendency**

(1) Taxpayers may designate the application of these required partial offer payments. This designation must be made in writing when the offer is submitted, clearly specifying how the partial payments are to be applied to specific tax periods or to specific liabilities (e.g. income taxes, employment taxes, trust fund portions of employment or excise taxes, etc.). This written payment designation will become part of, and remain with, the offer case file.

(2) Any partial payment(s) over 20% of the proposed offer amount for Lump Sum Cash offers or in excess of proposed installment amounts for periodic payment offers may not be designated. They will be considered a deposit and processed in accordance with IRM 5.8.2.7.

(3) In the absence of any written payment designation by the taxpayer when the offer was

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

submitted, the Service will apply partial payments in the best interest of the Government.

(4) COIC will process the required initial payments accompanying periodic payment offers prior to transferring an offer to an Offer Investigator. For offers without any written payment designation by corporations to compromise trust fund taxes, COIC will apply any partial payment(s) to the earliest unexpired CSED. Offer investigators assigned such offers are responsible for transferring the partial payment(s), if necessary, in the best interest of the government as defined in paragraph 7(b) 2) below.

(5) Offer investigators must ensure that taxpayers make proposed installments due while they evaluate periodic payment offers assigned to them. They must also ensure that required additional amounts are paid if the taxpayer submits a revised offer reflecting a larger proposed offer amount and/or changing the offer from a Periodic Payment to a Lump Sum offer. See paragraph (10) below.

**Note:** Taxpayers who qualify for the waiver of the required application fee based on their income level at the time they submit their offers do not have to make partial payments for either the Lump Sum Cash or Periodic Payment offers.

(6) If a subsequent proposed installment for a periodic payment offer is sent to COIC while the offer is assigned to an offer investigator, COIC will annotate the AOIC history with the amount(s) and date(s) of receipt. Offer investigators will monitor AOIC to ensure the timely and full payment of each subsequent proposed installment is submitted and posted.

(7) If a subsequent proposed installment for a periodic payment offer is sent to the offer investigator, the Offer Investigator will use Form 3244 to:

a) Apply the payment(s) directly to the tax liability included in the offer in accordance with the taxpayer's written payment specification, if any, submitted with the offer.

b) If no written payment specification was submitted with the offer, apply the payment(s) directly to a tax liability to the best interest of the Government.

1) For offers submitted by taxpayers other than corporations, apply the payment(s) to the tax liability(ies) with the earliest unexpired CSED(s)

2) For offers submitted from corporations involving trust fund taxes, apply payment(s) in the following descending order:

a. To all Forms 1120, 940, and any other non-trust fund liabilities (in earliest unexpired CSED order), if any;

b. To the following unpaid portions of all Form 941 periods (in earliest

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

unexpired CSED order) before considering applying defined in (c ) below;

1. Non-trust fund portion of tax (employer's share of FICA;
2. Assessed lien fees and collection costs;
3. Assessed penalty;
4. Assessed interest;
5. Accrued penalty to date of payment;
6. Accrued interest to date of payment

c. To the unpaid trust fund portion of the Form 941 tax (withholding and employee's share of FICA) in earliest unexpired CSED order.

c) Annotate the AOIC history with the amount(s) and date(s) of receipt.

**Note:** Use designated payment code (DPC) "02" when posting subsequent periodic offer payments specified to the trust fund portion when the offer was submitted by a corporate taxpayer. In all other situations use DPC "99."

(8) If the taxpayer fails to make a proposed installment for a periodic payment offer, the offer investigator will allow one opportunity to pay the missing amount. Contact the taxpayer by telephone or AOIC Additional Information letter to notify of the need to make that payment and allow 14 calendar days to do so (if no contact by telephone is made after one attempt, issue the Additional Information letter).

a) If the taxpayer pays the missing amount by the 31<sup>st</sup> day after the date of the telephone contact or letter, continue the offer investigation.

b) If the taxpayer fails to pay the missing amount by the 31<sup>st</sup> day after the date of the telephone contact or letter, close the offer as withdrawn, using the appropriate withdrawal letter in accordance with IRM 5.8.7.4.1.

**Note:** Taxpayers will be afforded an opportunity to make up only one missed proposed installment for a periodic payment offer, including any amended offers, unless special circumstances exist.

(9) The proposed offer amounts and terms submitted by a taxpayer dictate the required partial offer payments. The Service is not bound by those same terms in determining an acceptable offer. Therefore, offer investigators may negotiate different offer terms, when appropriate.

(10) During evaluation of an offer, the offer investigator may determine that the proposed offer is too low or the payment terms too protracted to recommend acceptance. In this situation, the offer investigator will advise the taxpayer as to the larger amount or different

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

terms would likely be recommended for acceptance. If the taxpayer submits a revised offer reflecting a larger proposed offer amount or changing the terms, one or more additional payments may be required. The taxpayer will be given credit for partial payments already made with respect to the original offer.

If...	And...	Then...
Original offer was a Lump Sum Cash offer	Revised offer is Lump Sum with greater proposed offer amount	Taxpayer must pay 20% of the revised amount, less the partial payment made with the original offer, with the revised offer
Original offer was periodic payment	Revised offer is Lump Sum	Taxpayer must pay 20% of revised offer amount, less any installment payments already paid toward the original offer, with the revised offer
Original offer was periodic payment	Revised offer is periodic payment with greater proposed offer amount and/or different proposed installment amounts or schedule	Taxpayer must make the initial proposed installment in accordance with the terms of the revised offer, as well as other proposed installments due during evaluation of the revised offer
Original offer was Lump Sum Cash Offer	Revised offer is periodic payment with greater proposed offer amount	Taxpayer must make the initial proposed installment in accordance with the terms of the revised offer, as well as other proposed installments due during evaluation of the revised offer

11) If the taxpayer submitting a revised or amended offer does not make the additional required partial payment(s), the offer investigator will return the offer as a processable return using the appropriate AOIC generated letter.

**Note:** In-progress offers will continue to be worked under the criteria defined in IRM 5.8 (revised 9/1/2005). No TIPRA payment requirements will apply to amended offers on in-progress cases. TIPRA requirements only apply to those offers received after July 22, 2006 (including the 5 day grace period).

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

12) If the taxpayer fails to submit the revised offer, it will be a rejection.

13) For dishonored partial payments required with submission of offers, see IRM 5.8.3.6 for appropriate procedures.

**5.8.4.13.1**

**Offers from Operating Businesses Including Trust Fund Liabilities**

(1) When an offer is accepted to compromise trust fund tax owed by an operating business, the taxpayer is relieved of significant operating expenses. The effect is to grant the delinquent taxpayer an economic advantage over competitors who are in tax compliance. Recovery of the unpaid trust fund tax amount is a significant issue when considering an offer from a business taxpayer. In the interest of “fairness to all taxpayers” the Service must be cautious to avoid providing financial advantages to those taxpayers through the forgiveness of employment tax debt, as this may be detrimental to competitors who are remaining in compliance with their tax obligations. The following procedures apply to all in business taxpayers, including sole proprietorships, partnerships, as well as corporations.

a. These taxpayers must remain in compliance while the offer is being considered. An untimely Federal Tax Deposit during the investigation will result in a return of the offer.

**Note:** It is no longer a requirement for the taxpayer to be compliant with the prior two quarterly tax returns, or to have made timely deposits prior to submitting the offer. However, it is necessary for the taxpayer to be current with the quarter that the offer was submitted and remain in compliance with the filing and deposits requirements during the offer process. This is a perfection issue and is no longer a processability issue.

b. If financial analysis reveals that the taxpayer cannot pay operating expenses and remain current with taxes (i.e. the business is operating at a loss), all business assets should be valued rather than just by valuing the income stream. Close review should be conducted as well to see whether the offer meets the criteria for return as one “solely to delay collection.”

c. Business tax returns (Schedule C, Form 1120, and Form 1065), the taxpayers balance sheet, income statements, and the Form 433-B, need to be carefully analyzed to arrive at the correct RCP. The following issues should be carefully reviewed and/or considered:

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

1) *Depreciation* – Do not allow depreciation. Instead allow necessary actual monthly obligations paid to secured creditors on depreciable assets (i.e. autos, equipment, or real estate loans).

2) *Accounts Receivable* – Accounts receivable that are current (i.e. usually less than 90 days past due) generally should not be discounted a QSV. Value all accounts receivable at 100% of the balance due, unless the taxpayer can substantiate the account has been delinquent over 90 days. IF the account is determined to be delinquent, it may be discounted up to a maximum of 50%. However, supporting documentation is required to substantiate accounts the taxpayer claims are delinquent over 90 days; such as a request for the taxpayer to provide an aging report. If the account is over 90 days and the taxpayer fails to provide substantiation, it will be valued at 100%.

**Note:** A delinquent account is defined as an uncollectible account that has been delinquent for more than 90 days. A collectible account is defined as one that may be considered to be past due, but is still an active client.

3) *Personal Expenses Paid by the Business* – Financial statements must be reviewed to ensure expenses such as car payments, insurance, utilities, etc. are not claimed on both the Form 433-A and the Form 433-B or Profit and Loss Statement.

4) *Compensation to Corporate Officers* – Wages and/or other compensation paid to corporate officers in excess of applicable expenses allowable per National and Local standards should generally not be allowed as business expenses.

5) *Stock Holder Distributions and Repayment of Loans to Officers* – These expenses are discretionary in nature. Distributions of this nature made after the incurrence of the employment tax delinquency should be factored into the RCP analysis as dissipated assets. Loans to officers should be considered an account receivable and valued according to their collectibility.

6) *Potential Recovery of “Priority Taxes”* – Trust fund tax plus associated interest is classified as a “priority tax” in the U.S. Bankruptcy code. As such this tax must be paid in full, in a Chapter 11 or 13 payment schedule. If it is probable that the taxpayer will file a Chapter 11 or 13 if the offer is returned or rejected, then an offer should not be considered for less than what would be recovered through the bankruptcy proceeding.

7) *Field Visits to Evaluate Business Assets* – A field call may be made to validate the existence and value of business assets and inventory for all offers involving operating business and that will be recommended for acceptance. The offer specialist should make the call, if practical, or initiate an OI to request that a call be made by another RO if the taxpayer operates in a remote location.

**Note:** OIs referred per these instructions should be considered high risk cases,



**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

Code 100, and processed accordingly.

**5.8.5.3.5**

**Cash**

(1) Review checking account statements over a reasonable period of time, normally three months.

**Note:** Determine if there are funds in the account that are not spent on a monthly basis. Generally, this would be the amount reflected on each month's statement when the account is at its lowest point. Treat overdrafts as zero balance. This should represent the amount available in the account each month after all deposits and withdrawals. *Average the lowest daily ending balance on each of the 3 statements and use this amount as the value of the account.* This amount will be added to the AET as an asset; however, it cannot be valued for less than zero.

(2) Determine the taxpayers' interest in bank accounts by ascertaining the manner in which they are held and applying the principles described in IRM 5.17.1, Legal Reference Guide for Revenue Officers.

(3) If an analysis of the bank statements and/or discussions with the taxpayer reveal that an adjustment to the balance is appropriate based on unusual expenses that are necessary for the production of income or the health and welfare of the taxpayer, consider adjusting the balance. The case file should clearly document these determinations.

(4) Analyze the statement for any unusual activity, i.e. deposit in excess of reported income, withdrawals, transfers, or checks for expenses not reflected on the CIS. The Offer Investigator should question these inconsistencies, as appropriate.

(5) Review savings accounts statements over a reasonable period of time, normally three months.

- If the account has little withdrawal activity, use the ending balance on the latest statement as the asset value for the AET.
- If it is apparent that the account is used for paying monthly living expenses, treat it as a checking account and follow the instructions in paragraphs (1) through (4) above to determine its value.

(6) If analysis of the bank statement reveals recently dissipated funds, see IRM 5.8.5.4 below for full discussion of the treatment of dissipated assets.

(7) If the taxpayer offers the balances of accounts to fund the offer, allow for any penalty for early withdrawal and the expected current year tax consequence.

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

(8) Verify whether deposits in escrow or trust accounts are actually held for the benefit of others.

(9) For funds on deposit with the offer in compromise, allow as an encumbrance any amount borrowed under the provision that, if the offer is not accepted, it must be repaid.

(10) If the taxpayer has made an offer under the Periodic Payment Option and they are making the appropriate payments throughout the investigation of the offer, include the amount of the payments when considering the value of the account for the AET calculation.

**5.8.5.5**  
**Future Income**

(1) Future income is defined as an estimate of the taxpayers' ability to pay based on an analysis of gross income, less necessary living expenses, for a specific number of months in the future. The number of months used depends on the payment terms of the offer.

a. For Lump Sum Cash offers

1. If the offer is payable in one lump sum payment in 5 months or 150 days or less – project for the next 48 months.

2. If the offer is payable in one lump sum payment in more than 5 months or 150 days – project for the next 60 months

b. For Short Term Periodic Payment offers – project for the next 60 months

c. For Deferred Periodic Payment offers – project for the number of months remaining on the statutory period for collection.

(2) Detailed instructions for calculating future income are contained in IRM 5.8.5.5.5 below.

(3) Consider the taxpayers overall general situation including such facts as age, health, marital status, number and age of dependents, highest education or occupational training, and work experience.

(4) Retired Debts – A taxpayer's ability to pay in the future may change during the period it is being considered because necessary expenses may increase or decrease. Adjust the amount or number of payments to be included in the future income calculation, based on the expected change in necessary expenses.

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

**Example:** The taxpayer may pay off an auto loan 24 months from the date the offer is accepted. This would increase the monthly future income by the amount of the loan payment. Child support payments may stop before the future income period is complete because the child turns a certain age. It is expected that these retired payments would increase the taxpayers' ability to pay.

**Note:** Inclusion of retired debt should not be added automatically in the calculation of the RCP. The Offer Investigator should use judgment in determining whether inclusion of the retired debt is appropriate based on the facts of the case; such as special circumstance or ETA situations. In all instances, the case histories should be documented to support the inclusion or exclusion of the retired debt.

(5) Some situations may warrant placing a different value on future income than current or past income indicates:

If...	Then...
Income will increase or decrease or current necessary expenses will increase or decrease	Adjust the amount or number of payments to what is expected during the appropriate number of months.
A taxpayer is temporarily unemployed or underemployed	Use the level of income expected if the taxpayer were fully employed and if the potential for employment is apparent. Each case should be judged on its own merit, including consideration of special circumstance or ETA issues. <b>Example:</b> Underemployment – if a taxpayer is a teacher, but recently moved and is currently working as a janitor until a teaching position becomes available; or has been hired and does not begin work until the school season begins, is considered to be currently underemployed.
A taxpayer has sporadic employment history or fluctuating income	Average earnings over several prior years. Usually this is the prior 3 years. <b>Note:</b> This practice does not apply to wage earners
A taxpayer is elderly, in poor health, or both and the ability to continue working is questionable	Adjust the amount or number of payments to the expected earnings during the appropriate number of months. Consider special circumstance situations when making any adjustments.
A taxpayer will file a petition for liquidating bankruptcy	Consider reducing the value of future income. The total value of future income should not be reduced to an amount less

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

	than what could be paid toward non-dischargeable periods, or what could be recovered through bankruptcy. When considering a reduction in future income also consider the intangible value of the taxpayer of avoiding bankruptcy.
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(6) Below are some examples of when it is and is not appropriate to income average. Judgment should be used in determining the appropriate time to apply income averaging on a case by case basis. All circumstances of the taxpayer should be considered when determining the appropriate application of income averaging, including special circumstance and ETA considerations.

a. The examples below are instances when income averaging may or may not be appropriate.

**Example:** A taxpayer is a commissioned sales person and the income varies year to year. It would be appropriate to income average in this case.

**Example:** Mr. taxpayer was on a fixed retirement and Mrs. Taxpayer had not worked for over 2 ½ years with no promise of future employment. Do not average or assign income for the spouse during past employment.

**Example:** The taxpayer had been unemployed for over a year and provided proof that SSDI was the sole source of income. Do not apply income averaging in this case.

**Example:** the taxpayer was incarcerated and unable to work for the past 4 years and provided proof that a relative was paying for all expenses, including child support payments. The taxpayer had not skills or promise of work in the near future but was planning on attending trade school to improve his chances of getting a job. Do not include income from the 4 years of employment prior to the incarceration. In this case, the income and expenses would be zero. Consideration should be given whether it would be in the best interest of the Government to accept the offer or to place it in CNC status.

**Example:** The taxpayer recently began working after several months of unemployment. Use the most recent 3 months pay statements to determine future income. Do not income average.

(7) In some instance, a future income collateral agreement may be used in lieu of including the estimated value of future income in RCP. When investigating an offer where current or past income does not provide an ability to accurately estimate future income, the use of a future income collateral agreement may provide a better means of calculating an

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

acceptable offer amount. Future income collateral agreements should not be used to enable a taxpayer to submit an offer in a lesser amount than the current or past financial condition dictates. However, if the future is uncertain, but it is reasonably expected that the taxpayer will be receiving a substantial increase in income, it may be appropriate.

**Example:** A taxpayer is currently in medical school and it is anticipated that upon graduation income should increase dramatically. See IRM 5.8.6.3.1, Future Income, for instructions on completing collateral agreements.

**Example:** A taxpayer recently secured a job as an attorney with a starting salary at \$80,000 per year, with potential for significant increases in salary.

**5.8.5.5.5**  
**Calculation of Future Income**

(1) Generally, the amount to be collected from future income is calculated by taking the projected gross monthly income less allowable expenses and multiplying the difference times the number of months remaining on the statutory period for collection.

(2) For Lump Sum Cash and Short Term Periodic Payment offers, when there are less than 48 or 60 months remaining on the statutory period for collection, use the number of months remaining. To determine the amount collectible from the future income on a deferred payment offer through the life of the statutory period for collection, take the following steps.

- a. Subtract allowable expenses from the monthly income to determine the monthly installment amount.
- b. Determine the valid CSED for each tax period included in the offer.
- c. Sort the tax periods by earliest CSED.
- d. For each tax period, determine the number of months remaining on the statutory period for collection. Begin with the day the offer was determined to be processable and end on the CSED. Round partial months up to the nearest whole month.
- e. For each tax period, determine the number of installments that may be applied before running out available funds. Round partial payments up to the nearest whole payment.
- f. Calculate the number of installments applied to each period. For succeeding periods, do not count months on the CSED that were used for applying installments to prior periods.

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

g. Add the number of installments applied to all the periods and multiply the sum by the monthly installment amount to arrive at the total amount collectible from future income. For examples of situations where the amount that may be applied to a period is limited, see Exhibits 5.8.5-1 through 5.8.5-3.

(Note: Deleted the note stating that if the allowed terms call for the first installment to begin later than 30 calendar days from acceptance, there will be one less month available to apply payments.)

**5.8.5.6**  
**Payment Terms**

(1) Payment terms are negotiable, but should provide for payment of the offered amount in the least time possible. If a taxpayer is planning to sell asset(s) to fund all or a portion of the offer, the payment terms for the offer should provide for immediate payment of the amounts received from the sale. If the taxpayer is planning to borrow a portion of the money, the Offer Investigator should determine when the loan will be received and the payment terms of the offer should provide for payment of the borrowed portion at the time the funds are received.

(2) For those taxpayers who agree to shorter payment terms, fewer months of future income is required:

Payment Type	Payment Terms	Number of Months Future Income Required
Lump Sum Cash	Within 5 months or 150 calendar days	48
Lump Sum Cash	More than 5 months or 150 calendar days	60
Short Term Periodic Payment	Within 6 to 24 months	60
Deferred Periodic Payment	Within time remaining on the statute	Number of months remaining on the statute

(3) There are three possibilities for deferred payment terms:

a. Payment of an amount equal to the net realizable equity (NRE) in assets within 90 calendar days and payment of the future income amount by monthly installments over the time remaining on the statutory period for collection, or

b. Payment of a portion of the net realizable equity in assets within 6 to 24 months and payment of the balance of the equity in assets and the future income amount by

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

monthly installments over the time remaining on the statutory period for collection,  
or

c. Payment of the entire compromise amount by monthly installments over the time remaining on the statutory period for collection.

(4) A third party source of funds may be required to make the portion of the monthly payment that is greater than we determined the taxpayer can afford from future income.

**5.8.7.3.1**

**Criteria for Return Reconsideration**

(1) Generally, the taxpayer or their representative must contact the Service to raise objections and justify the failure to provide the requested items within 30 calendar days from the date of the return letter (unless the condition that caused the failure to supply the substantiation continued for a prolonged period.)

(2) Acceptable criterion for potential return reconsideration are:

a. The offer was returned in error by either the Field or the COIC sites.

b. The information was sent timely but was not associated with the case.

**Note:** The determination of “received timely” can be determined by using the postmark date.

c. Serious illness and/or injury prevented the taxpayer for submitting the information timely.

**Note:** Serious illness and/or injury do not apply to the representative, since the taxpayer controlling the information receives a copy of the combo or additional information letter.

d. There was a death in the taxpayers’ immediate family that prevented timely mailing of the information.

e. The taxpayer suffered a disaster, such as fire or flood that prevented timely mailing of the information.

f. The failure to perfect by providing a required additional Form 656, TIPRA payment, and application fee, when the original Form 656 included both joint and separate liabilities or individual or joint and corporation or partnership liabilities.

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

- g. The taxpayer submitted a Form 656-A certification instead of paying the \$150 fee, and then provides proof that an incorrect conclusion was made.
- h. The failure to make estimated payments and the taxpayer provides proof that estimated or withheld taxes were not due.
- i. The taxpayer provides proof of estimated tax payments, but it was not received until after the deadline.
- j. The taxpayer provided proof that the required TIPRA payments were made, but not posted.

**5.8.7.4**  
**Voluntary Withdrawal**

(1) Taxpayers may voluntarily withdraw their offers at any time after the offers have been submitted. A withdrawal must never be solicited merely to avoid a complete investigation or deny taxpayers' access to Appeals.

(2) When an offer cannot be recommended for acceptance the offer investigator should give the taxpayer an opportunity to voluntarily withdraw the offer and at the same time inform the taxpayer that withdrawing the offer forfeits their appeal rights.

**Note:** The case history or correspondence must document that the taxpayer was informed of these rights.

(3) A voluntary withdrawal request may be made orally, by fax, or in writing. The letter 3504 (SC/CG) is available for taxpayers to request a withdrawal. Service employees should encourage taxpayers to provide the withdrawal in writing, but if a taxpayer or authorized representative provides a clear statement, either in writing or orally, indicating a wish to withdraw the offer, the offer may be closed as a withdrawal.

**Note:** The request of voluntary withdrawal may be either in writing or orally. Receipt of a withdrawal request must be clearly documented in the case file indicating how the request was received.

(4) If a request for a voluntary withdrawal is made by a Service employee, and a deposit has been received, the taxpayer should be asked to:

- Provide a request in writing clearly indicating a desire to withdraw the offer.
- Include a statement indicating that it is understood that rights to appeal are forfeited by a withdrawal.
- Include a statement indicating how any deposit made (if any) should be disposed



**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

- (i.e. should it be refunded or applied to the tax debt)
- Sign and date the request

**5.8.7.4.1**

**Mandatory Withdrawal**

(1) If during the investigation the taxpayer fails to make the monthly periodic payments as required by TIPRA, the offer may be considered withdrawn. One request for the payment must be made by telephone or by issuing a letter. A reasonable amount of time must be given for the taxpayer to make up the missed payment. Generally, this will be 2 weeks. If the taxpayer provides a reasonable explanation for missing the payment (i.e. special circumstances exist) the investigation of the offer should continue.

(2) If a decision can be made before contacting the taxpayer (i.e. a rejection has been determined), then no contact is necessary. Issue the rejection letter, document the case history, and close the case on AOIC. In this case, the taxpayer will receive their appeal rights.

(3) If the taxpayer fails to respond within a reasonable amount of time to the request to pay the remainder of the required initial payment, the offer will be considered to be withdrawn.

- This should not be considered an option or voluntary withdrawal
- No additional written or oral requests will be made
- No additional notification will be provided to the taxpayer

(4) Issue the withdrawal letter indicating that the taxpayer failed to comply with the request for additional payment(s) and therefore the offer is withdrawn.

(5) The letter must include the following information:

- Include a statement indicating that the taxpayer failed to respond to the request for the remainder of the required initial payment
- Include a statement indicating how any deposit made (if any) should be disposed (i.e. refunded or applied to the tax deposit)

(6) Close the offer as withdrawn as defined in IRM 5.8.7.4.2.

(7) Document the case history thoroughly defining the attempts to secure the funds and the decision to consider the case withdrawn.

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

**5.8.7.4.2**

**Closing an Offer as a Withdrawal**

(1) Offers closed as a withdrawal do not require preparation of Form 1271, Rejection Memorandum.

(2) The effective date of the voluntary withdrawal will depend on the method of receipt of the request to withdraw. The following chart shows the correct date to use as the withdrawal date:

If taxpayer withdraws an offer in compromise by...	Then the offer will be considered withdrawn...
Personal delivery	When notification of the withdrawal is received by the Service
Mailing written notification of the withdrawal via US certified mail.	On the date the Service receives the certified mail.
Non-certified mail, fax, or phone	On the date the Service mails, or personally delivers, a written letter to the taxpayer acknowledging the withdrawal

(3) The following actions should be taken to close an offer as a withdrawal:

a) Remove any tax periods listed on the MFT screen that are NOT listed on the Form 656. This reverses the TC 480 on these periods and helps to ensure that inaccurate CSEDs for such periods are not reflected.

b) Generate the AOIC “Withdrawal Letter” for the signature of the authorized delegated employee.

- Voluntary withdrawal – Use the chart above to determine the correct date to use as the effective date of the withdrawal.
- Mandatory withdrawal – The date of the withdrawal is the date of the “Withdrawal Letter.”

c) Generate the POA letter for any authorized representative.

d) Document the history indicating the date, method of receipt, and type of the withdrawal (e.g. voluntary or mandatory).

e) Submit the file for approval and signature of the letter(s)

f) Close the case on AOIC as “withdrawn” after approval. If there is a deposit and the taxpayer has requested that the deposit be applied to the tax, input “A” and mail a copy of the taxpayers written request for application of the funds to the

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

appropriate MOIC Unit. If there is a deposit and the taxpayer has asked for a refund or not provided instructions for disposition input "R" to refund the deposit.

g) Keep a copy of the letter(s) with the closed offer file.

**5.8.8.2**  
**Amending Form 656**

(1) When an offer is being recommended for acceptance, the tax periods owing and/or payment terms may need to be adjusted. This will require the taxpayer to submit an amended Form 656 to reflect the new terms.

- a) Mark it "amended" in red on the top margin of page one.
- b) Input "A" (amended) on screen one of the AIC record to reflect receipt of an amended offer, but do not change the "offer pending date."
- c) Add any new tax periods not included on the original Form 656 to the MFT screen. The date the IRS official signed the original offer should be added to the MFT screen as the waiver date for the new periods.
- d) Delete any tax periods found on the MFT screen that are no longer owed.
- e) Add the new terms for payment, if any, to the terms screen.

**Note:** For offers submitted on or after July 17, 2006, secure an amended Form 656 if submitted on an outdated Form.

(2) For offers received on or after July 17, 2006, see IRM 5.8.4.7.2.1(10) for partial payment requirements for offers submitted with revised offers.

**Note:** In-progress offers will continue to be worked under the criteria defined in IRM 5.8 (revised 9/1/2005). No TIPRA payment requirements will apply to amended offers on in-progress cases. TIPRA requirements only apply to those offers received after July 21, 2006.

**5.8.9.4.2**  
**Receipt and Processing**

(1) The office of jurisdiction that initially accepted the offer will consider the taxpayers

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

proposal.

(2) No specific offer form (such as Form 656) is prescribed for use in submitting such a proposal. The proposal should:

- Be made in letter format, and
- Include either the 20% initial required payment or the periodic installment payment.

Upon receipt of the proposal, add a history entry to AOIC indicating that an offer to compromise the offer has been received and notify the MOIC unit that the offer should not be defaulted until the results of the investigation are known.

**Note:** For ICS, create an OI or CIP to control the taxpayer proposal. When closing, be sure to note the results in the AOIC history.

(3) The total amount offered to satisfy the balance due under a compromise contract must be fully paid no later than 10 calendar days after a notice of acceptance is issued. The taxpayer may:

- a. Enclose full payment of the proposed amount with the proposal.
- b. Pay part of the proposed amount with the proposal and pay the balance when notice of acceptance is received.
- c. Full pay the proposed amount within 10 calendar days of the date the notice of acceptance is received.

(4) The proposal letter should be addressed to the Commissioner of IRS and must conform to patten Letter 1603(P), shown in Exhibit 5.8.9-1 below.

(5) The taxpayer must submit a current financial statement(s) and all required supporting documentation.

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

**Figure 1 – COIC Use Only**

<b>Form</b>	<b>656-PPV</b>  Department of the Treasury Internal Revenue Service	Form 656, Offer in Compromise, Partial Payment Voucher (PPV)	
<p>If you filed an offer in compromise and the offered amount is to be paid in 24 months or fewer (Installment Payment Offer) or monthly installments paid within the statutory period (Periodic Payment Offer) in accordance with the Tax Increase Prevention and Reconciliation Act of 2005, you must continue to make the payments during the investigation of the offer until you receive a decision letter (accepted, rejected, returned, or withdrawn). Mail this voucher with your check or money order payable to the "United States Treasury." Write your social security number or employer identification number on the check or money order. Do not send cash. You may designate a specific tax liability to apply the payments. If you chose to do this, please write it in the "Apply to" section of the 656-PPV.</p> <p>Enclose your payment with this voucher and mail to:</p> <p>For those offers originally sent to Holtsville, NY, please send payments to:  IRS, P.O. Box 9011, Holtsville, NY 11742</p> <p>For those offers originally sent to Memphis, TN, please send payments to:  AMC-Stop 880, PO Box 30834, Memphis, TN 38130-0834</p>		<p>Amount of your payment</p> <p>\$ _____</p> <p>Apply to:</p> <p>Form _____</p> <p>Period: _____</p>	
<b>Print or Type</b>	Your first name and initial		Your Last Name
	Address		
	City, State, and Zip Code		

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

## **Figure 2**

### **Completion of Automated Form 2515 (AOIC version)**

Verify the information generated on the AOIC 2515 is correct

1. TIN
2. Offer Number
3. LOC
4. Offer Amount
5. Taxpayer's name and address

Complete the following:

1. Record of Payment (IRS Received Date should be used as the payment date)
2. Reference (type of check)
3. Amount of payment (input as one amount)
4. Complete the remarks section as follows:
  - The application and amount of the payments.

Example: A taxpayer submitted one check for \$450. The remarks would say: \$150 applied to application fee; \$300 applied as payment

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

**RECORD OF OFFER IN COMPROMISE**

TIN:

Offer #:

LOC:

Date:

Name & Address:

Class of Tax & Periods:

MFT TXPD	MFT TXPD	MFT TXPD	MFT TXPD	MFT TXPD
-----	-----	-----	-----	-----

Terms of this Offer:

With waiver of refunds, default agreement and other provisions on Form 656.

Record of Payment:

Date	Reference	Amount	Balance
_____	_____	_____	_____
_____	_____	_____	_____

Remarks:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Automated Form 2515

**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

**Figure 2 (Continued)**

**Attachment to Form 2515**

**Offer Number:** \_\_\_\_\_

<b>Payment Type</b>	<b>Description</b>	<b>Designation</b>
Application Fee / 656-A	<i>Put payment amount here</i>	<i>If TP designates – put here</i>
Payment		
Deposit		
Estimated Tax Payment		
Total Check Amount		
3753 Manual Refund	Non-Processable Returns	

Contact for any discrepancies:

(Name)\_\_\_\_\_ (Phone Number)\_\_\_\_\_



**The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)**  
**Interim Procedures for Processing Offers in Compromise**  
**IRM 5.8, Offer in Compromise**

COIC REMITTANCE TRACKING REPORT								
IRS Rcvd Date: _____ COIC Rcvd Date: _____ Clerk Initials: _____ Date Loaded: _____					Batch No: _____ PE Recd Date: _____ PE Completion Date: _____ PE Assign No: _____			
A	B	C	D	E	F	G	H	I
Offer No	SSN/EIN	Name Control	Check Amt	Check / MO #	Check Type*	Form 3244	Not Processable Return (\$150 only) Return Non-Negotiable	Campus Support Initials
COLUMN TOTAL				COLUMN TOTAL				

\*Column F – Negotiable Instrument = Money Order (MO); Cashier Check (CC); Bank Check (BC); Government Check (GC)  
 Non-Negotiable Instrument = Personal Check (PC)

Part 1 Accounting Copy ☐      Part 2 Batch Transmittal Copy ☐      Part 3 File Copy ☐

Form 13479 (Revised 7/20/2006)